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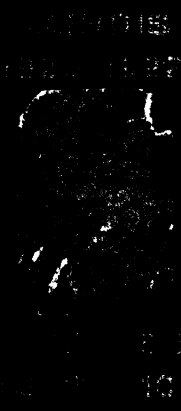
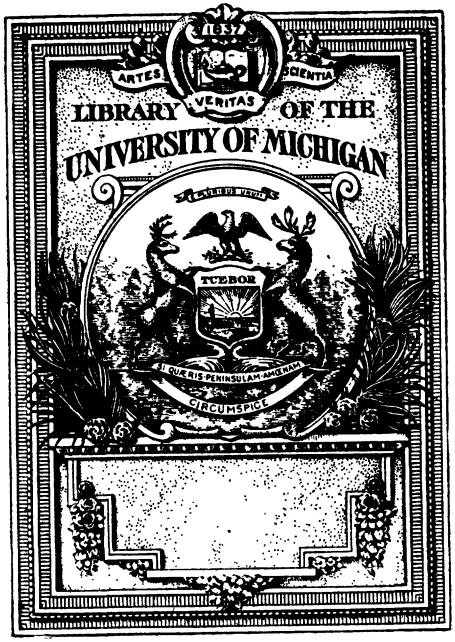
PROCEEDINGS
OF THE
CONSTITUTIONAL
CONVENTION





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Proceedings

of the

Illinois.

Constitutional Convention, 1920

of the

STATE OF ILLINOIS

Convened January 6, 1920

VOLUME I

Compiled by
Committee to edit the proceedings of the Convention

WILLIAM S. GRAY
JOHN L. DRYER
RODNEY H. BRANDON
Committee

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OFFICERS OF THE CONVENTION.

President

CHARLES E. WOODWARD
Ottawa

Secretary

B. H. MCCANN
Bloomington

CONSTITUTIONAL CONVENTION.

(SENATE JOINT RESOLUTION NO. 1.)

FIFTIETH GENERAL ASSEMBLY.

INTRODUCED BY SENATOR EDWARD C. CURTIS, JANUARY 16, 1917.

WHEREAS, The provisions of the Constitution of this State are in many respects inadequate to the present and prospective needs of the people; and

WHEREAS, By its provisions it is not possible to submit to the people a proposition to amend more than one article of the Constitution at the same time; therefore, be it

Resolved, by the Senate, the House of Representatives concurring herein, That a convention is necessary to revise, alter or amend the Constitution of this State, and that the question of the calling of such convention shall be submitted to the electors of this State at the next general election, as provided for in article 14 of the present Constitution.

Adopted by the Senate January 24, 1917.

Concurred in by the House of Representatives March 14, 1917.

OFFICIAL PROCLAMATION.

STATE OF ILLINOIS,

EXECUTIVE DEPARTMENT.

WHEREAS, The Fiftieth General Assembly of the State of Illinois passed a Joint Resolution proposing the calling of a Constitutional Convention (which said resolution was adopted by the Senate by two-thirds vote January 24, 1917, and concurred in by the House by two-thirds vote March 14, 1917), for the submission to the electors of this State for adoption or rejection at the next election of Members of the General Assembly of the State of Illinois, to be held on the fifth day of November, A. D. 1918, which said election was the next election for Members of the General Assembly ensuing the passage of said Joint Resolution;

AND WHEREAS, The said proposition for calling of a Constitutional Convention was duly published in two newspapers at the seat of government at least three months before the holding of said election on the fifth day of November, A. D. 1918, and notice of said election for the submission of said proposition was given as the law provided;

AND WHEREAS, The said proposition was submitted to the electors of the State, the ballots canvassed and returns made to the Secretary of State, all in conformity to law;

AND WHEREAS, In pursuance of law, the State Officers appointed to canvass the returns of said election and to declare the result thereof, did, on the 25th day of November, A. D. 1918, and between that date and this, the 30th day of November, A. D. 1918, in my presence, proceed in pursuance to law to open and canvass the returns of the votes for the adoption or rejection of said proposition, and it appearing, as a result of the canvass of the votes given at the above named election for and against the adoption of the proposition for the calling of a Constitutional Convention, that the total number of men's votes cast at said election was 975,545; that the total number cast for the adoption of said proposition was 562,012; that the total number of votes cast against said proposition was 162,206; that a majority of all the men's votes cast at said election was cast in favor of the adoption of said proposition for the calling of a Constitutional Convention; the majority of the said Board of Canvassers having declared that the proposition aforesaid was adopted;

NOW, THEREFORE, I, FRANK O. LOWDEN, Governor of the State of Illinois, in conformity to the statute in such case made and provided, do hereby make public proclamation declaring as the result of the canvass aforesaid made by a majority of the said State Board of Canvassers that the proposition aforesaid was adopted by virtue of having received a majority of all the men's votes cast at said election, and that said proposition was adopted.

IN TESTIMONY WHEREOF, I have hereto set my hand and caused to be affixed the Greal Seal of State. Done at the Capitol in the City of Springfield, Illinois, this 30th day of November, A. D. 1918.

(SEAL)

FRANK O. LOWDEN,
Governor of the State of Illinois.

By the Governor:

LOUIS L. EMMERSON,
Secretary of State of the State of Illinois.

Filed November 30, 1918.

LOUIS L. EMMERSON,
Secretary of State.

ACT CALLING CONSTITUTIONAL CONVENTION.

AN ACT *to assemble a convention to revise, alter or amend the Constitution of the State of Illinois.*

SECTION 1. *Be it enacted by the people of the State of Illinois, represented in the General Assembly:* That at the hour of 12 o'clock noon, on the sixth day of January, 1920, a convention to revise, alter or amend the Constitution of the State of Illinois shall meet in the hall of the Representatives of the General Assembly in the capitol building, in the City of Springfield. The Secretary of State shall take such steps as may be necessary to prepare the hall of the Representatives for the meeting of the convention.

§ 2. The convention shall consist of one hundred and two delegates. Two delegates shall be elected in and from each district entitled by law to elect a senator to the General Assembly. Delegates shall possess the same qualifications as State senators. The Governor, or the person exercising the powers of Governor, shall issue writs of election to fill vacancies in the convention.

§ 3. A primary election for the nomination of candidates for the position of delegate shall be held on the tenth day of September, 1919. All provisions of law in force at such time, and applying to the nomination of candidates for the office of State senator, shall to the extent that they are not in conflict with the terms of this Act, apply to the primary election herein provided for.

Vacancies created by the death of, or the declination of the nomination by any person nominated as a candidate for the position of a delegate, shall be filled in the manner provided by law for the filling of similar vacancies occasioned by the death of, or declination of the nomination by any person nominated as a candidate for the office of State senator.

Independent nominations for the position of delegate may be made in the manner now provided by law for the nomination of independent candidates by petition.

§ 4. The delegates shall be chosen at an election to be held on the fourth day of November, 1919. Such election shall be conducted in conformity with the laws then in force relating to elections for State senators, to the extent that such laws are applicable.

All votes cast in the election for delegates shall be tabulated, returned and canvassed in the manner then provided by law for the tabulation, return and canvass of votes cast in elections for State senators.

The official or officials, charged with the duty of issuing certificates of election to persons elected to the office of State senator, shall issue certificates of election to all persons duly elected as delegates.

Election contests for membership in the convention shall be heard and determined by the convention.

§ 5. Each delegate before entering upon his duties as a member of the convention, shall take an oath to support the Constitutions of the United States and of the State of Illinois, and to discharge faithfully his duties as a member of the convention. In going to and returning from the convention and during the sessions thereof the delegates shall, in all cases, except treason, felony or breach of the peace, be privileged from arrest; and they shall not be questioned in any other place for any speech or debate in the convention.

§ 6. Each delegate shall receive for his services the sum of two thousand dollars, payable at any time after the convention is organized. The delegates shall be entitled to the same mileage as is paid to the members of the General Assembly, to be computed by the Auditor of Public Accounts. The delegates shall receive no other allowance or emoluments whatever, except the sum of fifty dollars to each delegate, which shall be in full for postage, stationery, newspapers, and all other incidental expenses and perquisites. The pay and mileage allowed to each delegate shall be certified to by the president of the convention and entered on the journal of the convention.

§ 7. The convention shall determine the rules of its procedure, shall be the judge of the election, returns, and qualifications of its members, and shall keep a journal of its proceedings.

The Governor shall call the convention to order at its opening session and shall preside over it until a temporary or permanent presiding officer shall have been chosen by the delegates.

The delegates shall elect one of their own number as president of the convention, and they shall have power to appoint a secretary and such employes as may be deemed necessary. The secretary shall receive a compensation of fifteen dollars ($15.00) per day. The employes of the convention shall receive such compensation as shall be determined upon by the convention.

§ 8. The proceedings of the convention shall be filed in the office of the Secretary of State. The revision or alteration of, or the amendments to the Constitution, agreed to and adopted by the convention, shall be recorded in the office of the Secretary of State.

The revision or alteration of, or the amendments to the Constitution, adopted by the convention, shall be submitted to the electors of this State for ratification or rejection, at an election appointed by the convention for that purpose, not less than two months, nor more than six months after the adjournment of the convention. The convention shall determine the manner in which such revision, alteration or amendment shall be submitted to the electors. The convention shall prescribe the manner and form in which such revision, alteration or amendments shall be published prior to the submission thereof to the electors. No such revision, alteration or amendments shall take effect unless approved by a majority of the electors voting at such election.

The convention shall designate or fix the day or days upon which such revision, alteration or amendments, if adopted by the voters, shall become effective.

§ 9. Notices of the election to be called by the convention shall be given in the manner and form prescribed by the convention. The convention shall prescribe the manner and form of voting at such election, and the ballots for use in such election shall be printed accordingly, by the officials charged with the duty of printing ballots for use in general elections.

The votes cast at such election shall be tabulated, returned and canvassed in such manner as may be directed by the convention.

§ 10. Every person who, at the time of the holding of any primary or other election provided for in this Act, is a qualified elector under the Constitution and laws of this State, shall be entitled to vote in such election.

The primary and other elections provided for in this Act shall be held at the places fixed by law for the holding of general elections and shall be conducted by the officials, judges and clerks charged with the duty of conducting general elections.

All laws then in force in relation to the registration of voters in primary and general elections, and all laws then in force for the prevention of fraudulent and illegal voting, shall be applicable to the primary and other elections provided for in this Act.

All laws in force governing elections and not inconsistent with the provisions of this Act, or with powers exercised under the terms hereof, shall apply to and govern elections held under the terms of this Act.

§ 11. The convention shall have power to punish by imprisonment, any person, not a member, who shall be guilty of disrespect to the convention, by disorderly or contemptuous behavior in its presence. But no such imprisonment shall extend beyond twenty-four hours at any one time, unless such person shall persist in such disorderly or contemptuous behavior. Commitments for disorderly or contemptuous behavior in the presence of the convention shall be made in the manner now provided by law for the commitment of persons guilty of disrespect to the General Assembly.

§ 12. It shall be the duty of all public officers to furnish the convention with any and all statements, papers, books, records and public documents that the convention shall require. The convention, and its committees, shall have the same power to compel the attendance of witnesses, or the production of papers, books, records and public documents, as is now exercised by the General Assembly, and its committees, under the provisions of an Act entitled, "An Act to revise the law in relation to the General Assembly," approved and in force February 25, 1874.

§ 13. The sum of five hundred thousand dollars ($500,000), or so much thereof as may be necessary, is hereby appropriated for the payment of salaries and other expenses properly incident to the constitutional convention. The Auditor of Public Accounts is hereby authorized and directed to draw warrants on the State Treasurer for the foregoing amount or any part thereof, upon the presentation of itemized vouchers certified to as correct by the president of the constitutional convention or the acting president of the convention. All printing, binding, stationery and other similar supplies for the constitutional convention shall be furnished through the Department of Public Works and Buildings.

Approved June 21, 1919.

LIST OF DELEGATES.

Arranged alphabetically, giving number of district, name and business address.

Dist.	Name and Business Address.
40	[2] Adams, Edward E., Taylorville.
27	[3] Adamkiewicz, Stanley, 1327 Augusta St., Chicago.
11	Baldwin, Percival G., 195 W. 69th St., Chicago.
41	Barr, George A., Woodruff Bldg., Joliet.
31	Beckman, William H., 1400 Title Trust Bldg., Chicago.
14	Brandon, Rodney H., Mooseheart.
47	Brenholt, John J., Jr., Alton.
35	Brewster, Edward H., Dixon.
3	Carey, Archibald J., 3428 Vernon Ave., Chicago.
20	[4] Cary, Charles D., Kankakee.
33	Carlstrom, Oscar E., Aledo.
45	[5] Catron, B. L., Springfield.
40	Chew, William H., Shelbyville.
8	Clarke, Elam L., Waukegan.
45	[1] Conkling, Clinton L., 205½ S. 5th St., Springfield.
22	Coolley, E. B., Danville.
27	Corcoran, Edward J., Board of Election Commissioners, Chicago.
41	Corlett, Edward, Woodruff Bldg., Joliet.
11	Cruden, William H., Cook County Bldg., Chicago.
20	[1] Curtis, Edward C., Grant Park.
21	Cutting, Charles S., 11 S. LaSalle St., Chicago.
5	Davis, Abel, Title & Trust Bldg., Chicago.
6	Dawes, Rufus C., Room 1615, 111 W. Monroe St., Chicago.
7	DeYoung, Frederic R., 140 N. Dearborn St., Chicago.
33	Dietz, Cyrus E., Moline.
40	[6] Dove, F. R., Shelbyville.
38	Dryer, John L., Hillsboro.
24	Dunlap, Henry M., Savoy.
31	Dupee, Eugene H., 30 N. LaSalle St., Chicago.
6	Dupuy, George A., 135 E. 11th Pl., Chicago.
32	Elting, Philip E., Macomb.
26	Fifer, Joseph W., Bloomington.
17	Frole, Thomas F., 1131 W. Polk St., Chicago.
42	Fyke, Edgar E., Centralia.
43	Gale, George C., Galesburg.
23	Ganschow, William, 1001-15 Washington Blvd., Chicago.
10	Garrett, Bruce H., 508 Trust Bldg., Rockford.
48	Gee, Sylvester J., Lawrenceville.
46	Gilbert, G. Gale, Mt. Vernon.
20	Goodyear, A. F., Watseka.
2	Gorman, John J., 111 W. Washington St., Chicago.
36	Gray, William S., Coatsburg.
24	Green, Henry I., Urbana.
29	Hamill, Charles H., 105 W. Monroe St., Chicago.
51	Hogan, George W., McLeansboro.
34	Hollenbeck, William T., Marshall.
5	Hull, Morton D., 105 S. LaSalle St., Chicago.
17	Iarussi, Michael, 761 W. Taylor St., Chicago.
16	Ireland, Charles H., Washburn.
46	Jack, James P., Gillmore Block, Newton.

[1] Deceased.
[2] Vice Dove, resigned.
[3] Vice Corcoran, deceased.
[4] Vice Curtis, deceased.
[5] Vice Conkling, deceased.
[6] Resigned.

Dist.	Name and Business Address.
30	Jarman, Lewis A., Rushville.
37	Johnson, Lawrence C., Galva.
37	Johnson, Watts A., Princeton.
26	Kerrick, Thomas C., Bloomington.
15	Kunde, Ernest, 3324 W. 22d St., Chicago.
4	Latchford, George P., 826 Marquette Bldg., Chicago.
49	Lill, Herbert F., Mascoutah.
47	Lindly, Cicero J., Greenville.
21	Lohman, George F., 107 City Hall, Chicago.
32	Mack, David E., Carthage.
1	Mayer, Levy, Cont. Com. Nat'l Bank Bldg., Chicago.
25	McEwen, Willard M., 1406 Tribune Bldg., Chicago.
44	McGuire, Sylvester W., Sparta.
44	Meinert, Henry W., Hoyleton.
25	Michaelson, M. A., Otis Bldg., Chicago.
9	Michal, Charles J., 139 N. Clark st., Chicago.
14	Mighell, Lee, Aurora.
7	Miller, Amos C., 395 S. LaSalle St., Chicago.
28	Mills, Andrew H., 609 Millikin Bldg., Decatur.
28	Moore, Charles B. T., Decatur.
3	Morris, Edward H., 333 S. Dearborn St., Chicago.
10	Nichols, James, Polo.
19	O'Brien, Martin J., County Bldg., Chicago.
45	Paddock, James H., 709 S. 7th St., Springfield.
51	Parker, Charles V., Harrisburg.
48	Pearce, Prince A., Carmi.
15	Pincus, S. E., 127 N. Dearborn St., Chicago.
22	[7] Pinnell, B. H., Kansas.
27	Potts, Ernest D., Board of Election Commissioners, Chicago.
18	Quinn, Frank J., 1104 Lehman Bldg., Peoria.
29	Revell, Alexander H., Wabash and Adams Sts., Chicago.
38	Rinaker, Thomas, Carlinville.
19	Rosenberg, Michael, 1500 S. Racine Ave., Chicago.
39	Scanlan, William M., Peru.
9	Shanahan, David E., 115 S. Dearborn St., Chicago.
30	Shaw, Guy L., Beardstown.
34	Shuey, Charles A., Charleston.
36	Six, Rollo, Barry.
12	Smith, Arthur M., Stockton.
50	Sneed, William J., Herrin.
12	Stahl, Harry H., Freeport.
22	[1] Stewart, William, Paris.
13	Sutherland, Douglas, 108 S. LaSalle St., Chicago.
2	[1] Sullivan, Michael F.
43	Taff, Albert E., Canton.
42	[1] Tanner, J. Mack, Flora.
2	[8] Tebbens, George W., 1212 S. Ashland Ave., Chicago.
18	Todd, Hiram E., 319 Central Nat'l Bank Bldg., Peoria.
16	Torrance, H. E., Pontiac.
4	Traeger, John E., 5425 S. Halsted St., Chicago.
49	Trautmann, William E., East St. Louis.
50	Wall, William A., Mound City.
35	Warren, Alvin, Leland.
8	Whitman, Frank S., Belvidere.
1	Wilson, Walter H., 520 Rookery, Chicago.
13	Wolff, Oscar, City Hall, Chicago.
23	Woodward, Charles, 111 W. Washington St., Chicago.
39	Woodward, Charles E., Ottawa.

[1] Deceased.
[7] Vice Stewart, deceased.
[8] Vice Sullivan, deceased.

LIST OF DELEGATES BY DISTRICTS.

Where no city is given as part of the address, Chicago is understood.

An election to fill vacancies caused by death and resignation was held January 23, 1922. The delegates elected to fill vacancies qualified January 31, 1922.

FIRST DISTRICT.

The First and Second wards in the City of Chicago.

Name.	County.	Residence.	Occupation.	Pol.
Wilson, Walter H.	Cook	2619 Prairie Ave.	Bank'g and Real Est.	Rep.
Mayer, Levy	Cook	Blackstone Hotel	Lawyer	Dem.

SECOND DISTRICT.

Twentieth ward and parts of the Eleventh and Twelfth wards in the City of Chicago.

Gorman, John J.	Cook	1633 Jackson Boul.	Lawyer	Rep.
[1] Sullivan, Michael F.	Cook	1611 W. Jackson Boul	Lawyer	Dem.
[2] Tebbens, George W.,	Cook	1212 S. Ashland Ave.	Florist	Rep.

THIRD DISTRICT.

Third ward and parts of Fourth, Fifth and Sixth wards in the City of Chicago.

Morris, Edward H.	Cook	3757 Vernon Ave.	Lawyer	Rep.
Carey, Archibald J.	Cook	3428 Vernon Av.	Minister	Rep.

FOURTH DISTRICT.

The Twenty-ninth and Thirtieth wards and part of the Thirty-first ward in the City of Chicago.

Traeger, John E.	Cook	921 W. 54th Pl.	Banker	Dem.
Latchford, George P.	Cook	4532 Emerald Ave.	Insurance	Dem.

FIFTH DISTRICT.

Parts of the Sixth and Seventh wards in the City of Chicago.

Davis, Abel	Cook	5125 Ellis Ave.	Vice-Pres. Title Trust Co.	Rep.
Hull, Morton D.	Cook	4855 Woodlawn Ave.	Pres., Raymond Concrete Pile Co.	Rep.

SIXTH DISTRICT.

The Twenty-fourth and Twenty-sixth wards and part of the Twenty-third and Twenty-fifth wards in the City of Chicago, and parts of the towns of Evanston, Niles and New Trier, all in County of Cook.

Dawes, Rufus C.	Cook	1800 Sheridan Rd., Evanston	Man'g'r of Corporation.	Rep.
Dupuy, George A.	Cook	3434 Home Ave., Berwyn	Lawyer	Rep.

[1] Deceased.
[2] Vice Sullivan, deceased.

SEVENTH DISTRICT.

The towns of Thornton, Bloom, Rich, Bremen, Orland, Lemont, Palos, Worth, Lyons, Stickney, Proviso, Leyden, Elk Grove, Schaumberg, Hanover, Barrington, Palatine, Wheeling, Northfield, and parts of the towns of New Trier, Niles, Norwood Park and Maine, all in the County of Cook.

Name.	County.	Residence.	Occupation.	Pol.
DeYoung, Frederic R.	Cook	50 E. 150th St., Harvey	Lawyer and Pres., 1st Nat'l Bank of Harvey	Rep.
Miller, Amos C.	Cook	241 Melrose Ave., Kenilworth	Lawyer	Rep.

EIGHTH DISTRICT.

The counties of Boone, Lake and McHenry.

Clarke, Elam L.	Lake	Waukegan	Lawyer	Rep.
Whitman, Frank S.	Boone	429 S. State St., Belvidere	Physician and Surgeon	Rep.

NINTH DISTRICT.

Parts of the Fourth, Fifth and Twelfth wards in the City of Chicago.

Shanahan, David E.	Cook	3315 S. Western Boul	Real Estate	Rep.
Michal, Charles J.	Cook	2410 S. Kedzie Ave.	Lawyer	Dem.

TENTH DISTRICT.

The counties of Ogle and Winnebago.

Garrett, Bruce H.	Winnebago.	Rockford	Lawyer	Rep.
Nichols, James	Ogle	Polo	Farmer	Rep.

ELEVENTH DISTRICT.

The Thirty-second ward and part of the Thirty-first ward in the City of Chicago.

Baldwin, Percival G.	Cook	2017 W. 70th St.	Broker, Builder and Real Estate	Rep.
Cruden, William H.	Cook	10204 Wallace St.	Clerk	Rep.

TWELFTH DISTRICT.

The counties of Carroll, JoDaviess and Stephenson.

Smith, Arthur M.	JoDaviess.	Stockton	Druggist	Rep.
Stahl, Harry H.	Stephenson.	134 Lincoln Ave., Freeport	Pres. and Treas., Chas. E. Meyer & Co., Manufacturers	Rep.

THIRTEENTH DISTRICT.

The Eighth and Thirty-third wards and part of the Seventh ward in the City of Chicago, and part of the town of Calumet, all in the County of Cook.

Wolff, Oscar	Cook	10611 Avenue H.	Manufacturer	Rep.
Sutherland, Douglas.	Cook	6558 Minerva Ave.	Sec., Chicago Civic Federation	Rep.

FOURTEENTH DISTRICT.

The counties of Kane and Kendall.

Name.	County.	Residence.	Occupation.	Pol.
Mighell, Lee	Kane	Aurora	Lawyer	Rep.
Brandon, Rodney H.	Kane	Mooseheart	Supreme Sec'y Loyal Order of Moose	Rep.

FIFTEENTH DISTRICT.

Parts of the Ninth, Tenth and Eleventh wards in the City of Chicago.

Kunde, Ernest	Cook	2025 S. Halsted St.	Pres., Mutual Product Co	Rep.
Pincus, S. E	Cook	836 W. 14th St	Lawyer	Dem.

SIXTEENTH DISTRICT.

The counties of Livingston, Marshall, Putnam and Woodford.

Ireland, Charles H.	Woodford	Washburn	Banker	Rep.
Torrance, H. E.	Livingston	Pontiac	Lawyer	Rep.

SEVENTEENTH DISTRICT.

The Nineteenth ward and parts of the Ninth and Tenth wards in the City of Chicago.

Frole, Thomas F.	Cook	1140 W. Taylor St.	Clerk	Dem.
Iarussi, Michael	Cook	761 W. Taylor St.	Undertaker and Embalmer	Dem.

EIGHTEENTH DISTRICT.

The county of Peoria.

Todd, Hiram E.	Peoria	300 Ellis St., Peoria.	Lawyer	Rep.
Quinn, Frank J.	Peoria	515 Moss Ave., Peoria	Lawyer	Dem.

NINETEENTH DISTRICT.

The Thirteenth and the Thirty-fourth wards and part of the Twelfth ward in the City of Chicago, the Town of Riverside and part of the Town of Cicero, all in the County of Cook.

O'Brien, Martin J.	Cook	3845 Flournoy St.	Tax Commissioner	Dem.
Rosenberg, Michael	Cook	1215 Independence Boul	Manufacturer	Dem.

TWENTIETH DISTRICT.

The counties of Grundy, Iroquois and Kankakee

[1] Curtis, Edward C.	Kankakee	Grant Park	Banker	Rep.
Goodyear, A. F.	Iroquois	Watseka	Lawyer	Rep.
[2] Cary, Charles D.,	Kankakee		Railroad Claim Agent.	Rep.

TWENTY-FIRST DISTRICT.

The Fourteenth ward and parts of the Seventeenth and Thirty-fifth wards in the City of Chicago.

Lohman, George F.	Cook	566 N. Long Ave.	Deputy City Collector.	Rep.
Cutting, Charles S.	Cook	307 N. Waller Ave.	Lawyer	Rep.

[1] Deceased.
[2] Vice Curtis, deceased.

TWENTY-SECOND DISTRICT.

The counties of Edgar and Vermilion.

Name.	County.	Residence.	Occupation.	Pol.
Coolley, E. B	Vermilion	Danville	Physician	Rep.
[1] Stewart, William	Edgar	Paris	Farmer Merchant and Dealer in pure bred cattle and horses	Rep.
[2] Pinnell, B. H.,	Kansas		Banker	Rep

TWENTY-THIRD DISTRICT.

The Fifteenth ward and parts of the Sixteenth and Thirty-fifth wards in the City of Chicago, and part of the Town of Cicero, all in the County of Cook.

Ganschow, William	Cook	2156 Pierce Ave	Manufacturer	Rep.
Woodward, Charles	Cook	225 S. Scoville Ave., Oak Park	Lawyer	Rep.

TWENTY-FOURTH DISTRICT.

The counties of Champaign, Moultrie and Piatt.

Dunlap, Henry M	Champaign	Savoy	Farmer and Fruit Grower	Rep.
Green, Henry I	Champaign	Urbana	Lawyer	Rep.

TWENTY-FIFTH DISTRICT.

The Twenty-seventh and Twenty-eighth wards in the City of Chicago.

Michaelson, M. A	Cook	3018 Palmer Sq	2d Vice-Pres. of Fitzsimmons & Connell Dredge Co	Rep.
McEwen, Willard M	Cook	3633 N. Springfield Ave	Lawyer	Rep.

TWENTY-SIXTH DISTRICT.

The counties of Ford and McLean.

Fifer, Joseph W	McLean	Bloomington	Lawyer	Rep.
Kerrick, Thomas C	McLean	Bloomington	Lawyer and Farmer	Rep.

TWENTY-SEVENTH DISTRICT.

The Eighteenth ward and parts of the Sixteenth and Seventh wards in the City of Chicago.

[1] Corcoran, Edward J	Cook	323 S. Peoria St	Real Estate	Dem.
Potts, Ernest D	Cook	21 N. Ashland Boul.	Merchant	Dem.
[3] Adamkiewicz, Stanley,		1327 Augusta St	Real Estate Broker	Dem.

TWENTY-EIGHTH DISTRICT.

The counties of DeWitt, Logan and Macon.

Mills, Andrew H	Macon	356 W. Decatur St., Decatur	Lawyer	Rep.
Moore, Charles B. T	Macon	Decatur	Retired Naval Officer	Rep.

TWENTY-NINTH DISTRICT.

Parts of the Twenty-first and Twenty-second wards in the City of Chicago.

Hamill, Charles H.	Cook	199 Lake Shore Dr.	Lawyer	Rep.
Revell, Alexander H	Cook	842 N. Michigan Ave	Merchant and Manufacturer	Rep.

[1] Deceased.
[2] Vice Stewart, deceased.
[3] Vice Corcoran, deceased.

THIRTIETH DISTRICT.

The counties of Brown, Cass, Mason, Menard, Schuyler and Tazewell.

Name.	County.	Residence.	Occupation.	Pol.
Shaw, Guy L.	Cass	Beardstown	Farmer and Farm Manager	Rep.
Jarman, Lewis A	Schuyler	Rushville	Attorney at Law	Rep.

THIRTY-FIRST DISTRICT.

Parts of the Twenty-first, Twenty-second, Twenty-third and Twenty-fifth wards in the City of Chicago.

Beckman, William H	Cook	2468 Orchard St	Lawyer	Rep.
Dupee, Eugene H	Cook	538 Aldine Ave	Lawyer	Rep.

THIRTY-SECOND DISTRICT.

The counties of Hancock, McDonough and Warren.

Mack, David E	Hancock	Carthage	Lawyer	Rep.
Elting, Philip E	McDonough	Macomb	Lawyer, Farmer and Oil Producer	Rep.

THIRTY-THIRD DISTRICT.

The counties of Henderson, Mercer and Rock Island.

Carlstrom, Oscar E	Mercer	507 S. College Ave., Aledo	Lawyer	Rep.
Dietz, Cyrus E	Rock Island	838 17th St., Moline	Lawyer	Rep.

THIRTY-FOURTH DISTRICT.

The counties of Clark, Coles and Douglas.

Hollenbeck, William T	Clark	Marshall	Lawyer	Rep.
Shuey, Charles A	Coles	Charleston	Lawyer	Rep.

THIRTY-FIFTH DISTRICT.

The counties of DeKalb, Lee and Whiteside.

Brewster, Edward H	Lee	105 E. Boyd St., Dixon	Lawyer and Farmer	Rep.
Warren, Alvin	DeKalb	Leland, R. F. D	Farmer	Rep.

THIRTY-SIXTH DISTRICT.

The counties of Adams, Calhoun, Pike and Scott.

Gray, William S	Adams	Coatsburg	Farmer	Rep.
Six, Rollo	Pike	Barry	Lawyer	Dem.

THIRTY-SEVENTH DISTRICT.

The counties of Bureau, Henry and Stark.

Johnson, Lawrence C	Henry	314 Main St., Galva	Lawyer	Rep.
Johnson, Watts A	Bureau	405 E. Peru St., Princeton	Lawyer	Rep.

THIRTY-EIGHTH DISTRICT.

The counties of Greene, Jersey, Macoupin and Montgomery.

Name.	County.	Residence.	Occupation.	Pol.
Dryer, John L.	Montgomery	940 S. Main St,. Hillsboro	Lawyer	Rep.
Rinaker, Thomas	Macoupin	Carlinville	Lawyer and Farmer	Rep.

THIRTY-NINTH DISTRICT.

The county of LaSalle.

Woodward, Charles E.	LaSalle	Ottawa	Lawyer	Rep.
Scanlan, William M.	LaSalle	830 Lincoln Ave., Peru	Lawyer	Rep.

FORTIETH DISTRICT.

The counties of Christian, Cumberland, Fayette and Shelby.

Chew, William H.	Shelby	2211 N. Morgan St., Shelbyville	Lawyer	Rep.
[1] Dove, F. R.	Shelby	Shelbyville	Lawyer	Dem.
[2] Adams, Edward E.,	Taylorville		Lawyer	Rep.

FORTY-FIRST DISTRICT.

The counties of DuPage and Will.

Barr, George A.	Will	206 3d Ave., Joliet	Lawyer	Rep.
Corlett, Edward	Will	Joliet	Lawyer	Rep.

FORTY-SECOND DISTRICT.

The counties of Clay, Clinton, Effingham and Marion.

[3] Tanner, J. Mack	Clay	Flora	Farmer and Orchardist	Rep.
Fyke, Edgar E.	Marion	Centralia	Coal Mine Operator	Dem.

FORTY-THIRD DISTRICT.

The counties of Fulton and Knox.

Gale, George C.	Knox	Galesburg	Lawyer and Farmer	Rep.
Taff, Albert E.	Fulton	Canton	Lawyer	Rep.

FORTY-FOURTH DISTRICT.

The counties of Jackson, Monroe, Perry, Randolph and Washington.

McGuire, Sylvester W.	Randolph	120 S. Market St., Sparta	Merchant	Rep.
Meinert, Henry W.	Washington	Hoyleton	Retired Merchant	Rep.

FORTY-FIFTH DISTRICT.

The counties of Morgan and Sangamon.

[3] Conkling, Clinton L.	Sangamon	802 S. 2d St., Springfield	Lawyer	Rep.
Paddock, James H.	Sangamon	709 S. 7 St., Springfield	Sec'y of Senate	Rep.
[4] Catron, B. L.,	Springfield		Lawyer	Rep.

[1] Resigned.
[2] Vice Dove, resigned.
[3] Deceased.
[4] Vice Conkling, deceased.

FORTY-SIXTH DISTRICT.

The counties of Jasper, Jefferson, Richland and Wayne.

Name.	County.	Residence.	Occupation.	Pol.
Jack, James P.	Jasper	Newton	Lawyer	Rep.
Gilbert, G. Gale	Jefferson	Mt. Vernon	Lawyer and Sec'y Security Dept. Sec'y of State's Office	Rep.

FORTY-SEVENTH DISTRICT.

The counties of Bond and Madison.

Brenholt, John J., Jr.	Madison	Alton	Asst. to Pres. of E. St. Louis & Sub. Ry. Co.	Rep.
Lindly, Cicero J.	Bond	Greenville	Lawyer, Farmer and Dairyman	Rep.

FORTY-EIGHTH DISTRICT.

The counties of Crawford, Edwards, Gallatin, Hardin, Lawrence, Wabash and White.

Gee, Sylvester J.	Lawrence	Lawrenceville	Lawyer	Rep.
Pearce, Prince A.	White	Carmi	Lawyer	Dem.

FORTY-NINTH DISTRICT.

The county of St. Clair.

Trautmann, William E.	St. Clair	R. R. 2 E. St. Louis	Lawyer	Rep.
Lill, Herbert F.	St. Clair	Mascoutah	Lawyer	Rep.

FIFTIETH DISTRICT.

The counties of Alexander, Franklin, Pulaski, Union and Williamson.

Sneed, William J.	Williamson	501 S. Park Ave., Herrin	Mine Union Official	Rep.
Wall, William A.	Pulaski	Mound City	Lawyer	Rep.

FIFTY-FIRST DISTRICT.

The counties of Hamilton, Johnson, Massac, Pope and Saline.

Hogan, George W.	Hamilton	McLeansboro	Lawyer	Rep.
Parker, Charles V.	Saline	Harrisburg	Banker, Farmer and Merchant	Rep.

SUMMARY OF DELEGATES TO THE CONSTITUTIONAL CONVENTION.

Republicans	85
Democrats	17
Total	102

Bankers	5	Orchardists	2
Clerks	2	Presidents	4
Coal Mine Operators	1	Physicians	2
Druggist	1	Real Estate	3
Deputy City Collector	1	Retired	2
Farmers	5	Secretaries	3
Insurance	1	Tax Commissioner	1
Lawyers	57	Undertaker	1
Manager	1	Union Official	1
Manufacturers	3	Vice Presidents	2
Merchants	3		
Minister	1	Total	102

The above summary includes only delegates originally elected.
Summary of delegates elected to fill vacancies:

Republicans	5
Democrats	1
Total	6

Bankers	1	Railroad Claim Agent	1
Florist	1	Real Estate	1
Lawyers	2		
		Total	6

RULES OF THE CONSTITUTIONAL CONVENTION.

I.

OFFICERS OF THE CONVENTION.

LIST.

1. The officers of the Convention shall be a President and a Secretary. These officers shall be elected by a majority vote of all delegates elected to the Convention.

THE PRESIDENT.

2. The President shall take the chair each day at the hour to which the Convention shall have adjourned. He shall call the Convention to order and shall proceed to business in the manner prescribed by the rules.

3. The President shall preserve order and decorum; may speak to points of order in preference to other delegates, and shall decide questions of order, subject to an appeal to the Convention, on which appeal no delegate shall speak more than once, except by leave of the Convention.

4. He shall be *ex-officio* member and chairman of the Committee on Rules and Procedure, and shall be *ex-officio* member of all committees of the Convention to which he shall not have been specifically appointed.

5. He shall appoint all committees, except where the Convention shall otherwise order.

6. He may substitute any delegate to perform the duties of the Chair, but not for a longer time than one week, except by leave of the Convention.

7. He may vote on all elections or divisions called for by any delegate, and on all questions taken by yeas and nays, except on appeals from his decisions.

8. He shall examine and correct the Journal before it is read; and the same shall be printed and placed upon the desks of the delegates. He shall have general direction of the hall.

9. All writs, warrants and subpoenas issued by order of the Convention shall be under the hand of the President and attested by the Secretary.

10. In case of any disturbance or disorderly conduct on the floor of the Convention, in the lobby or galleries, by the spectators, the President or the chairman of the Committee of the Whole shall have power to order the floor, the lobby or galleries to be cleared of spectators.

11. The President shall appoint the Sergeant-at-Arms and all other employees, shall prescribe their duties and fix the hours of their employment. The number of such employees and their compensation shall be determined or fixed by resolution passed by a majority vote of the delegates elected to the Convention. The committee rooms shall be under the control of the President and shall be assigned by him to the several committees. All orders for the payment of salaries, mileage and other expenses shall be approved by the President. No extra compensation, allowance or perquisites shall be voted to any officer or employee of the Convention.

12. In the performance of their duties the Secretary and all employees shall be under the supervision of the President.

THE SECRETARY.

13. The Secretary shall keep the Journal of the Convention, and of the Committee of the Whole and shall superintend the printing thereof. He shall call the roll whenever it shall be ordered and record the vote. Subject to the control of the President he shall be the custodian of the records of the Convention, and under the direction of the President he shall perform the customary duties of clerks or secretaries of deliberative assemblies, and such other duties as shall be ordered by the Convention or the President.

SERGEANT-AT-ARMS.

14. Subject to the direction of the President, the Sergeant-at-Arms shall enforce the rules of the Convention. He shall be especially charged with enforcing the rules as to admission to the Convention hall.

II.

SESSIONS OF THE CONVENTION.

15. Ten o'clock in the morning shall be the standing hour to which the Convention shall adjourn, unless otherwise ordered by a majority vote.

III.

PROPOSALS.

16. After the 1st day of March, 1920, no proposal shall be introduced except on the report or recommendation of a standing or select committee.

17. Delegates may introduce proposals by presenting the same from the floor of the Convention on the proper order of business. The proposals shall be sent in duplicate by the introducer to the Secretary's desk, numbered by the Secretary and handed to the President; if in proper form the same shall at the next session of the Convention, be read the first time and referred by the President to the appropriate committee; if such proposal is not in proper form, the same shall be by the President referred back to the introducer with an oral statement from the chair explaining defects in form.

Each proposal shall be single as to subject matter, shall bear an appropriate title, and when read and referred to Committee, shall be printed and by title and number spread upon the Journal.

18. Proposals shall be in substantially the following form:

Constitutional Convention, Proposal No. 1920
Introduced by Mr. .....Jan.....1920

A proposal to (here insert title).

Resolved, That the following shall become a part of the Constitution of Illinois.

or

Resolved, That Section.....of Article.....of the Constitution of 1870 now in force be omitted from the proposed revised Constitution.

19. All provisions of the present Constitution shall be referred to the appropriate Committees for consideration and report. The Committee on Rules and Procedure shall prepare a list designating the parts of the Constitution to be referred to each committee; and such list shall be reported to the Convention, and shall control unless the Convention shall otherwise determine.

20. When a committee has reported that no amendments should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all proposals for Constitutional amendment relating to that subject which have been referred to that committee

shall be considered as rejected. The proposals affected by this rule shall, however, be reported by the committee to the Convention with a statement to this effect. All provisions of the present Constitution for which no amendment or substituted provision shall have been passed by the Convention, shall stand referred to the Committee on Phraseology and Style, and by said committee combined and coordinated with the other proposals approved and passed by the Convention as constituting the revised Constitution as a unit, and incorporated in the report of the said committee as required by Paragraph 8 of Rule 22.

21. The several committees shall consider and report without unnecessary delay upon the respective matters referred to them by the Convention. The Convention by a vote of a majority of the delegates elected thereto, may, upon the motion of any delegate, require any committee to report upon any proposal that has been committeed to it, or may withdraw the proposal from the committee. Any proposal withdrawn from committee by a vote of the Convention shall be regarded as in the same parliamentary status as if reported favorably by the committee.

22. The regular order to be taken for proposals introduced in the Convention shall be as follows:

1. Introduction; first reading and reference to a committee by the President, unless otherwise ordered by a majority of the delegates present.
2. Report of committee and placing on the general orders.
3. Consideration in Committee of the Whole in order of reference.
4. Report by the Committee of the Whole to the Convention and reference by the Convention to the Committee on Phraseology and Style.
5. Report of Committee on Phraseology and Style upon the specific proposals referred to it.
6. Second reading; vote on passage, the vote to be taken by yeas and nays and entered on the Journal; no favorable action to be taken unless a majority of all the delegates elected shall have voted in favor of the same.
7. Re-reference to Committee on Phraseology and Style, for action as provided by Rule 20.
8. Report by Committee on Phraseology and Style, on all proposals as a unit.
9. Reference of the report of the Committee on Phraseology and Style to the Committee of the Whole where it shall be subject to amendment as to matter of form only.
10. Report by Committee of the Whole and by a vote of a majority of delegates elected to the Convention, placing on the order of third reading.
11. Third reading and passage as a whole. Upon such passage the yeas and nays shall be taken and entered on the Journal. A majority vote of all delegates elected shall be required for passage and adoption. Upon third reading no amendment shall be in order without unanimous consent.

IV.

ORDER OF BUSINESS.

23. On the meeting of the Convention, the order of business shall be as follows:

Opening Prayer.
Corrections, if any, and approval of the Journal.
Special orders of the day.
Reports of standing committees.
Reports of select committees.
Introduction of Proposals.
First reading and reference of Proposals.
Second reading of Proposals.

Motions and resolutions.
Unfinished business.
General orders of the day.

23½. If on the Convention day following the day on which the printed Journal for the preceding Convention day is placed on the desks of the Delegates, no corrections be made of the Journal as printed for such previous Convention day, the same shall stand approved.

24. Any matter may be made a special order for a particular hour of any day, by a majority of the delegates elected. The Committee on Rules and Procedure may report a special order, which special order shall take the place of the regular order.

25. Any subject matter having been made the special order for a particular day, and not having been reached on that day, the same shall come up on the same order of business the next succeeding session after the special orders thereof set for such succeeding day.

V.

DELEGATES.

26. No protest or petition contesting the election of any delegate shall be received or considered unless filed within fifteen days from and after the opening of the Convention.

27. No delegate shall absent himself from the sessions of the Convention unless he have leave or be ill or his absence be otherwise unavoidable.

28. No delegate shall name another delegate in debate.

29. No delegate shall speak more than once, on the same question, without leave of the Convention, unless he be the mover of the matter pending or chairman of the committee which reported the same, in which case he shall be privileged to close the debate even though he may have already spoken or the previous question have been ordered.

30. No delegate shall indulge in the reading of newspapers during a session of the Convention. While the President is putting any question, while the Secretary is calling the roll, or while any delegate is speaking, no delegate shall walk out of or across the hall, entertain private discourse or pass between the Speaker and the Chair.

31. No person shall visit or remain at the Secretary's desk while the yeas and nays are being called.

32. After a question has been stated by the President, and the calling of the roll has been begun, the President shall not recognize a delegate for any purpose, except upon points of order, or questions of privilege, until after the announcement of the vote, but he shall preserve order and shall direct delegates who are not in their seats to resume the same.

33. An explanation of a vote shall not be in order, unless made before the Convention divides, or before the call of the yeas and nays is commenced.

VI.

COMMITTEES OF THE CONVENTION.

34. The President shall appoint the following standing committees:
Agriculture, consisting of 15 members.
Bill of Rights, consisting of 15 members.
Chicago and Cook County, consisting of 15 members.
Corporations and Cooperative Associations, consisting of 15 members.
County and Township Government, consisting of 11 members.
Distinction Between Constitutional and Legislative Subjects, consisting of 7 members.
Editing Debates, consisting of three members.
Education, consisting of 9 members.

Executive Department, consisting of 15 members.
Expenditures and Supplies, consisting of 5 members.
Future Amendment of the Constitution, consisting of 11 members.
Industrial Affairs and Labor, consisting of 15 members.
Initiative, Referendum and Recall, consisting of 15 members.
Judicial Department, consisting of 15 members.
Legislative Department, consisting of 15 members.
Military Affairs, consisting of 9 members.
Miscellaneous Subjects, consisting of 11 members.
Municipal Government, consisting of 15 members.
Phraseology and Style, consisting of 7 members.
Public Works and Improvements, consisting of 9 members.
Qualifications and Election of Delegates, consisting of 9 members.
Revenue, Taxation and Finance, consisting of 15 members.
Rules and Procedure, consisting of 10 members including the President.
Schedule, consisting of 7 members.
Submission and Address, consisting of 15 members.
Suffrage, consisting of 9 members.

35. The first named member of any committee shall be the chairman.

36. No committee shall sit during the sessions of the Convention without special leave. All committee hearings shall be open to the public.

37. A majority of a committee shall constitute a quorum. All committee reports upon Proposals shall be in writing, and shall be signed by at least a majority of the members of the committee, and shall be accompanied by all the papers in relation thereto. Such reports when made shall be spread upon the Journal.

Every committee report upon Proposals, shall be in proper sectional form and shall contain no reason for such Proposal, nor any recital of facts which may have led to the report; but the committee or a reporting minority thereof, if it choose, may present on separate paper a recital of facts with an argument, which, however, shall not be entered on the Journal, except when ordered by the Convention.

38. The report of a minority of any committee shall be received and printed in the Journal.

39. When any proposal is about to be considered by a committee, the introducer of such proposal shall be notified of the time and place where such proposal shall be considered by such committee.

40. The rules of the Convention shall be observed in all committees as far as may be applicable, and each committee shall keep a record of its proceedings.

41. The Committee on Expenditure and Supplies shall approve all bills entailing the expenditure of funds.

VII.

COMMITTEE OF THE WHOLE.

42. In forming a Committee of the Whole Convention, the President shall leave the Chair, and a chairman to preside in the committee shall be appointed by the President.

43. Reports of standing committees, when received by the Convention, shall lie on the table and be printed, and, when referred to the Committee of the Whole, they shall, unless otherwise ordered by the committee, be taken up in their order and shall be the standing order for the Committee of the Whole on each succeeding day. This rule shall not control in case a special order is adopted in accordance with the rules of the Convention.

44. When the Convention shall have arrived at the "General orders of the Day," it shall go into Committee of the Whole upon such orders, or upon a special order and, in the absence of a special order, the Committee of the Whole shall consider, act upon or pass the general orders, according to the order of their reference.

45. Proposals submitted to the Committee of the Whole shall first be read through, and then read and acted upon by sections. All amendments shall be entered on separate paper, and so reported to the Convention by the chairman.

46. A motion that the committee rise shall always be in order and shall be decided without debate.

47. A motion to reconsider shall be in order in Committee of the Whole.

48. The rules of the Convention shall be observed in Committee of the Whole, so far as they may be applicable, except that the vote of a majority of said committee shall govern its action; it can not refer matters to any other committee; it can not adjourn; the previous question shall not be enforced; the yeas and nays shall not be called; a motion to postpone indefinitely shall not be in order; a member may speak more than once. A Journal of the proceedings in Committee of the Whole shall be kept as in Convention, and debates of the Committee of the Whole shall be reported in the same manner as debates in Convention.

49. The Committee of the Whole may at any time close debate, and bring on a direct vote on any pending proposition by a majority of two-thirds of the committee present and voting on the question; and any motion to that end shall not be debatable.

50. A majority of all delegates elected to the Convention shall constitute a quorum of the Committee of the Whole. When it shall appear on a division that a quorum is not present, the chairman shall dissolve the committee and the President shall resume the Chair.

The committee shall have the same powers as the Convention to enforce the attendance of members; and the Secretary and Sergeant-at-Arms shall be the Secretary and Sergeant-at-Arms respectively of the Committee of the Whole.

VIII.

PUBLICATIONS.

51. Under the supervision of the Secretary a daily Journal shall be printed and placed upon the desks of the delegates. The debates of each day shall be printed under the supervision of the President and placed upon the desks of the delegates as promptly as possible.

IX.

MOTIONS.

52. All resolutions or motions calling for the appointment of committees, or involving the expenditure of money, or involving the right of a delegate to a seat in the Convention shall require the concurrence of a majority of all the delegates elected, with a yea and nay vote taken and entered on the Journal. No resolution or motion involving the expenditure of money shall be adopted without first having been referred to the Committee on Expenditures and Supplies for consideration and report.

53. No second shall be required to any motion presented to the Convention.

54. When a motion is made it shall be stated by the President, or being in writing, it shall be handed to the Secretary and read aloud before being debated.

55. Every motion shall be reduced to writing, if the President or any delegate shall request it, and shall be entered upon the Journal, together with the name of the delegate making it, unless withdrawn or ruled out of order by the President.

56. After a motion has been stated by the President or read by the Secretary, it shall be deemed to be in the possession of the Convention, but

may be withdrawn at any time before decision or amendment, by leave of the Convention.

57. When a question is under debate, no motion shall be received but:

1. To adjourn.
2. To take a recess.
3. For a call of the convention.
4. To lay on the table.
5. For the previous question.

} Not amendable or debatable.

6. To postpone indefinitely, not amendable but debatable.
7. To postpone to a day certain.
8. To commit.
9. To amend.

} Precludes debate on main question.

Which several motions shall take precedence in the order in which they stand arranged. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling, unless otherwise determined. No motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day and at the same stage of the question.

58. A motion to lay any particular proposition on the table shall apply to that particular proposition only.

59. The previous question shall be put in this form:

"Shall the main question be now put?" And until it is decided, shall preclude all amendments or debate. When it is decided that the main question shall not now be put, the main question shall be considered as still remaining under debate.

The effect of the main question's being ordered shall be to put an end to all debate, and bring the Convention to a direct vote upon all amendments reported or pending in the inverse order in which they have been offered, and then upon the main question. After the motion for the previous question has prevailed, it shall not be in order to move for a call of the Convention unless it shall appear by yeas and nays that no quorum is present (and if a call of the Convention is ordered it shall continue in effect until the vote on the main question has been taken); or to move to adjourn prior to a decision of the main question; provided, if a motion to postpone or to commit is pending the only effect of the previous question shall be to bring the Convention to a vote upon such motion.

60. When a blank is to be filled, and different sums or times are proposed, the question shall first be put on the largest sum and longest time.

61. Any delegate may call for a division of the question, when divisible, but a motion to strike out and insert shall be indivisible.

62. When a question has been once put and carried in the affirmative or negative, it shall be in order for a member of the majority to move for reconsideration thereof, or give notice that he will make such motion, but no motion for the reconsideration of any vote shall be in order unless on the same or the next day of actual session of the Convention provided, that should the member giving notice of a motion to re-consider not make such motion. Within the time prescribed by the rules, any other members voting in the majority may make such motion within the next session of the Convention. A motion to reconsider shall take precedence of all other questions except a motion to adjourn.

63. No motion or proposition on a subject different from the one under consideration shall be admitted under color of an amendment or substitute.

X.

GENERAL RULES.

64. A majority of all delegates elected to the Convention shall constitute a quorum, but a smaller number may adjourn from day to day or for less time than one day, and compel the attendance of absent delegates. A call of the Convention may be made for the purpose of obtaining a quorum;

or for the purpose of securing the attendance of absent delegates, even though a quorum be present.

65. Upon a call of the Convention, the names of the delegates shall be called by the Secretary and the absentees noted, after which the names of the absentees shall again be called, the doors shall then be shut, and those for whom insufficient or no excuses are made, may, by order of those present, be taken into custody as they appear, or may be sent for and taken into custody, wherever found by the Sergeant-at-Arms. When a call of the Convention has been ordered, the Sergeant-at-Arms shall permit no delegate to leave the hall of the Convention.

66. No person, other than delegates, officers and employees of the Convention, the elected State Officers of the Executive Department, the Secretary to the Governor, the Judges and Clerk of the Supreme Court and Members of the former Constitutional Conventions of the State, shall be entitled to remain on the floor of the Convention while it is in session. Representatives of the Press while the Convention is in session shall have access to the galleries and places allotted to them by the President.

67. No smoking shall be allowed in the hall, lobbies or galleries.

68. Every delegate presenting a paper containing subject matter for the consideration of the Convention shall endorse the same with a brief statement of its subject or contents, adding his name.

69. Upon the demand of five delegates, which may be oral or in writing, and made before or after a viva voce vote, or before or after a division, the yeas and nays shall be taken on any question, and entered upon the Journal. Such demand shall be made before proceeding to other business.

70. Upon a call of the Convention for the yeas and nays on any question the names of the delegates shall be called in alphabetical order.

71. When the reading of a paper is called for, and the same is objected to by any delegate, the question shall be determined by a vote of the Convention.

72. No memorial, remonstrance or petition shall be printed in full in the daily Journal unless ordered by the Convention.

73. Whenever any delegate is about to speak in debate or deliver any matter to the Convention, he shall rise in his seat and respectfully address himself to "Mr. President," and confine himself to the question under debate, and avoid personalities, and no motion shall be considered in order unless made from the seat allotted to the delegate.

74. Any two delegates or more shall have the liberty to dissent from, and protest, in respectful language, against any act taken or resolution adopted which they shall think injurious to the public or any individual, and have the reasons for their dissent entered upon the Journal.

75. Questions shall be put substantially in this form, viz: "As many as are of the opinion that" (as the case may be) "say 'aye,'" and after the affirmative vote is expressed, "As many as are of the contrary opinion say 'No.'" If the President doubts, or if a division be called for, the Convention shall divide; those in the affirmative shall first rise from their seats, and afterwards those in the negative.

76. On all appeals from the decisions of the Chair (which must be seconded), the question shall be "Shall the judgment of the Chair stand as the judgment of the Convention?" which shall be decided by a rising vote, unless otherwise ordered by the Convention.

77. No rule shall be suspended without the vote on roll call or division, of two-thirds of the delegates present; nor shall any rule be altered or amended without one day's notice being given of the motion thereof, and the vote on roll call of a majority of the delegates elected, but any amendment or alteration reported by the Committee on Rules and Procedure may be adopted at any time on roll call or division by a majority of the delegates elected.

78. The rules of parliamentary practice comprised in Cushing's Law and Practice of Legislative Assemblies, shall govern the Convention in all cases in which they are applicable and in which they are not inconsistent with the rules of the Convention.

COMMITTEES.

Agriculture—Dunlap, Chairman; Warren, Stewart, Ireland, Shaw, Hollenbeck, Meinert, Gray, Tanner, Dove, Cruden, Whitman, Johnson L. C., Parker, and Gee.

Bill of Rights—Rinaker, Chairman; Wall, Morris, Carey, Corlett, Cooley, Dawes, Shuey, Davis, Revell, Scanlan, Quinn, Pincus, Elting, and Nichols.

Chicago and Cook County—Hull, Chairman; Wilson, Traeger, Mayer, Sutherland, Kunde, Woodward Charles, Miller, Michal, Wall, Chew, Quinn, Clarke, Smith, and Carlstrom.

Corporations and Cooperative Associations—Fyke, Chairman; Dawes, Kunde, Michal, Baldwin, Rosenberg, Parker, Ireland, Todd, Brenholt, Elting, Beckman, Lohman, Ganschow, and Warren.

County and Township Government—Smith, Chairman; Dove, McGuire, Lill, Taff, Hogan, Jarman, Gray, Nichols, O'Brien, and Ganschow.

Distinction Between Constitutional and Legislative Subjects—Dietz, Chairman; Brewster, McEwen, Michaelson, Mack, Corlett, and Dryer.

Editing Debates—Clarke, Chairman; Dryer, Brandon.

Education—Brandon, Chairman; Dunlap, Barr, Gray, Beckman, Iarussi, Corcoran, Rosenberg, and Carey.

Executive Department—Trautmann, Chairman; DeYoung, Cutting, Miller, Iarussi, Potts, Whitman, Brewster, Green, Gilbert, Hogan, Johnson L. C., Dietz, Tanner, and Six.

Expenditures and Supplies—Wilson, Chairman; Stahl, Taff, Paddock, and Six.

Future Amendment of the Constitution—Fifer, Chairman; Corlett, Revell, Moore, Gilbert, Hamill, Pincus, Shuey, Mighell, Wolff, and Torrance.

Industrial Affairs and Labor—Sneed, Chairman; Miller, Parker, Baldwin, Mighell, Fyke, Brenholt, Potts, Iarussi, Gorman, Carey, Frole, Shaw, Revell, and Michal.

Initiative, Referendum and Recall—Dove, Chairman; Kunde, Latchford, Wolff, Frole, Potts, Corcoran, Jack, Kerrick, McGuire, Carlstrom, Taff, Dupuy G. A., Mills, and Goodyear.

Judicial Department—DeYoung, Chairman; Cutting, Green, Mack, Conkling, McEwen, Mayer, Dupuy G. A., Gorman, Gee, Dryer, Goodyear, Garrett, Pearce, and Todd.

Legislative Department—Curtis, Chairman; Shanahan, Fifer, Rinaker, Mighell, Quinn, Lindly, Dunlap, Hull, Morris, Traeger, Latchford, Baldwin, Paddock, and Stahl.

Military Affairs—Beckman, Chairman; Tanner, Meinert, Davis, Hollenbeck, Moore, Nichols, Coolley, and Cruden.

Miscellaneous Subjects—O'Brien, Chairman; Coolley, Lohman, Michaelson, Meinert, Lill, Pincus, Brandon, Paddock, Johnson W. A., and Hollenbeck.

Municipal Government—Garrett, Chairman; Stahl, Brandon, Carlstrom, Gee, Jarman, Scanlan, Chew, Woodward Charles, Johnson W. A., Hogan, Lill, Jack, Michaelson, and Corcoran.

Phraseology and Style—Hamill, Chairman; Rinaker, Moore, Dupee E. H., Torrance, Clarke, and Barr.

Public Works and Improvements—Lindly, Chairman; Scanlan, Ireland, Wilson, Chew, Johnson L. C., Stewart, Ganschow, and Jarman.

Qualifications and Election of Delegates—Wolff, Chairman; Woodward Charles, Mayer, Shaw, McEwen, Rosenberg, Fifer, Gale, and Pearce.

Revenue, Taxation and Finance—Gale, Chairman; Whitman, Sutherland, Dawes, Sneed, Dupee E. H., Kerrick, Warren, Barr, Johnson W. A., Brenholt, Fyke, Shuey, Davis, and O'Brien.

Rules and Procedure—Mr. President, Chairman; Green, Shanahan, Curtis, Hamill, Trautmann, Gale, Wall, Pearce, and Quinn.

Schedule—Dupuy G. A., Chairman; Elting, Gorman, Mills, Morris, Curtis, and Trautmann.

Submission and Address—Green, Chairman; Brandon, Shanahan, Jarman, Hamill, Smith, Ganschow, Barr, Morris, Sneed, O'Brien, Lindly, Davis, Wolff, and Fyke.

Suffrage—Cruden, Chairman; Traeger, Frole, Todd, Stewart, Six, Mills, McGuire, and Lohman.

Selected Committee to Edit the Proceedings of the Convention—Clarke, Chairman; Dryer, and Brandon.

The vacancies on committees caused by the death of delegate Curtis were filled by the following appointments: Shanahan as Chairman of the Legislative Committee; Barr on said Committee; Taff on the Committee on Schedule; Paddock on the Committee on Rules.

On December 7, 1920, Hamill resigned as Chairman of the Committee on Phraseology and Style and Clarke was made Chairman. Brewster was appointed to fill the vacancy on the committee. Clarke thereupon resigned as Chairman of the Committee to Edit Debates, Gray taking his place as Chairman of the Committee to Edit Debates.

The vacancies caused by death and resignation not having been filled until all the committee work had been concluded, none of the members elected to fill vacancies were given committee assignments.

COMMITTEE ASSIGNMENTS OF DELEGATES.

BALDWIN, PERCIVAL G.—Member of Committees on Corporations and Cooperative Associations; Industrial Affairs and Labor; and Legislative Department.

BARR, GEORGE A.—Member of Committees on Phraseology and Style; Revenue, Taxation and Finance; and Education.

BECKMAN, WILLIAM H.—Chairman of the Committee on Military Affairs; and member of Committees on Education; and Corporation and Cooperative Association.

BRANDON, RODNEY H.—Chairman of the Committee on Education; and member of Committees on Miscellaneous Subjects; Municipal Government; and to Edit the Proceedings of the Convention.

BRENHOLT, JOHN, J., JR.—Member of Committees on Corporations and Cooperative Associations; Industrial Affairs and Labor; and Revenue, Taxation and Finance.

BREWSTER, EDWARD H.—Member of Committees on Distinction Between Constitutional and Legislative Subjects; and Executive Department.

CAREY, ARCHIBALD J.—Member of Committees on Bill of Rights; Education; and Industrial Affairs and Labor.

CARLSTROM, OSCAR E.—Member of Committees on Chicago and Cook County; Initiative, Referendum and Recall; and Municipal Government.

CHEW, WILLIAM H.—Member of Committees on Chicago and Cook County; Municipal Government; and Public Works and Improvements.

CLARKE, ELAM L.—Chairman of the Committee to Edit the Proceedings of the Convention; and member of Committees on Chicago and Cook County; and Phraseology and Style.

CONKLING, CLINTON L.—Member of Committee on Judicial Department.

COOLLEY, E. B.—Member of Committees on Bill of Rights; Military Affairs; and Miscellaneous Subjects.

CORCORAN, EDWARD J.—Member of Committees on Education; Initiative, Referendum and Recall; and Municipal Government.

CORLETT, EDWARD.—Member of Committees on Bill of Rights; Distinction Between Constitutional and Legislative Subjects; and Future Amendment of the Constitution.

CRUDEN, WILLIAM H.—Chairman of the Committee on Suffrage; and member of Committees on Agriculture; and Military Affairs.

CURTIS, EDWARD C.—Chairman of the Committee on Legislative Department; and member of Committees on Schedule; and Rules and Procedure.

CUTTING, CHARLES S.—Member of Committees on Executive Department; and Judicial Department.

DAVIS, ABEL.—Member of Committees on Bill of Rights; Military Affairs; and Revenue, Taxation and Finance.

DAWES, RUFUS C.—Member of Committees on Bill of Rights; Corporations and Cooperative Associations; and Revenue, Taxation and Finance.

DE YOUNG, FREDERIC R.—Chairman of the Committee on Judicial Department; and member of Committee on Executive Department.

DIETZ, CYRUS E.—Chairman of the Committee on Distinction Between Constitutional and Legislative Subjects; and member of Committee on Executive Department.

DOVE, F. R.—Chairman of the Committee on Initiative, Referendum and Recall; and member of Committees on Agriculture; and County and Township Government.

DRYER, JOHN L.—Member of Committees on Distinction Between Constitutional and Legislative Subjects; and Judicial Department; and to Edit the Proceedings of the Convention.

DUNLAP, HENRY M.—Chairman of the Committee on Agriculture; and member of Committees of Education; and Legislative Department.

DUPEE, EUGENE H.—Member of Committees on Phraseology and Style; and Revenue, Taxation and Finance.

DUPUY, GEORGE A.—Chairman of the Committee on Schedule; and member of Committees on Judicial Department; and Initiative, Referendum and Recall.

ELTING, PHILIP E.—Member of Committees on Bill of Rights; Corporations and Cooperative Associations; and Schedule.

FIFER, JOSEPH W.—Chairman of the Committee on Future Amendment of the Constitution; and member of Committees on Legislative Department; and Qualifications and Election of Delegates.

FROLE, THOMAS F.—Member of Committees on Industrial Affairs and Labor; Initiative, Referendum and Recall; and Suffrage.

FYKE, EDGAR E.—Chairman of the Committee on Corporations and Cooperative Associations; and member of Committees on Industrial Affairs and Labor; and Revenue, Taxation and Finance.

GALE, GEORGE C.—Chairman of the Committee on Revenue, Taxation and Finance; and member of Committees on Qualification and Election of Delegates; and Rules and Procedure.

GANSCHOW, WILLIAM.—Member of Committees on Corporations and Cooperative Associations; County and Township Government; and Public Works and Improvements.

GARRETT, BRUCE H.—Chairman of the Committee on Municipal Government; and member of Committee on Judicial Department.

GEE, SYLVESTER J.—Member of Committees on Agriculture; Judicial Department; and Municipal Government.

GILBERT, G. GALE.—Member of Committees on Executive Department; and Future Amendment of the Constitution.

GOODYEAR, A. F.—Member of Committees on Inititative, Referendum and Recall; and Judicial Department.

GORMAN, JOHN J.—Member of Committees on Industrial Affairs and Labor; Judicial Department; and Schedule.

GRAY, WILLIAM S.—Member of Committees on Agriculture; County and Township Government; and Education.

GREEN, HENRY I.—Member of Committees on Executive Department; Judicial Department; and Rules and Procedure.

HAMILL, CHARLES H.—Chairman of the Committee on Phraseology and Style; and member of Committees on Future Amendment of the Constitution; and Rules and Procedure.

HOGAN, GEORGE W.—Member of Committees on County and Township Government; Executive Department; and Municipal Government.

HOLLENBECK, WILLIAM T.—Member of Committees on Agriculture, Military Affairs; and Miscellaneous Subjects.

HULL, MORTON D.—Chairman of the Committee on Chicago and Cook County; and member of Committee on Legislative Department.

IARUSSI, MICHAEL.—Member of Committees on Education; Executive Department; and Industrial Affairs and Labor.

IRELAND, CHARLES H.—Member of Committees on Agriculture; Corporations and Cooperative Associations; and Public Works and Improvements.

JACK, JAMES P.—Member of Committees on Initiative, Referendum, and Recall; and Municipal Government.

JARMAN, LEWIS A.—Member of Committees on County and Township Government; Municipal Government; and Public Works and Improvements

JOHNSON, LAWRENCE C.—Member of Committees on Agriculture, Executive Department; and Public Works and Improvements.

JOHNSON, WATTS A.—Member of Committees on Miscellaneous Subjects; Municipal Government; and Revenue, Taxation and Finance.

KERRICK, THOMAS C.—Member of Committees on Initiative, Referendum and Recall; and Revenue, Taxation and Finance.

KUNDE, ERNEST.—Member of Committees on Chicago and Cook County; Corporations and Cooperative Associations; and Initiative, Referendum and Recall.

LATCHFORD, GEORGE P.—Member of Committees on Initiative, Referendum and Recall; and Legislative Department.

LILL, HERBERT F.—Member of Committees on County and Township Government; Miscellaneous Subjects; and Municipal Government.

LINDLY, CICERO J.—Chairman of the Committee on Public Works and Improvements; and member of Committee on Legislative Department.

LOHMAN, GEORGE F.—Member of Committees on Corporations and Cooperative Associations; Miscellaneous Subjects; and Suffrage.

MACK, DAVID E.—Member of Committees on Distinction Between Constitutional and Legislative Subjects; and Judicial Department.

MAYER, LEVY.—Member of Committees on Chicago and Cook County; Judicial Department; and Qualifications and Election of Delegates.

McEWEN, WILLARD M.—Member of Committees on Distinction Between Constitutional and Legislative Subjects; Judicial Department; and Qualifications and Election of Delegates.

McGUIRE, SYLVESTER W.—Member of Committees on County and Township Government; Initiative, Referendum and Recall; and Suffrage.

MEINERT, HENRY W.—Member of Committees on Agriculture, Military Affairs; and Miscellaneous Subjects.

MICHAELSON, M. A.—Member of Committees on Distinction Between Constitutional and Legislative Subjects; Miscellaneous Subjects; and Municipal Government.

MICHAL, CHARLES J.—Member of Committees on Chicago and Cook County; Corporations and Cooperative Associations; and Industrial Affairs and Labor.

MIGHELL, LEE—Member of Committees on Future Amendment of the Constitution; Industrial Affairs and Labor; and Legislative Department.

MILLER, AMOS C.—Member of Committees on Chicago and Cook County; Executive Department; and Industrial Affairs and Labor.

MILLS, ANDREW H.—Member of Committees on Initiative, Referendum and Recall; Schedule; and Suffrage.

MOORE, CHARLES B. T.—Member of Committees on Future Amendment of the Constitution; Military Affairs; and Phraseology and Style.

MORRIS, EDWARD H.—Member of Committees on Bill of Rights; Legislative Department; and Schedule.

NICHOLS, JAMES—Member of Committees on Bill of Rights; County and Township Government; and Military Affairs.

O'BRIEN, MARTIN J.—Chairman of the Committee on Miscellaneous Subjects; and member of Committees on County and Township Government; and Revenue, Taxation and Finance.

PADDOCK, JAMES H.—Member of Committees on Legislative Department; Miscellaneous Subjects; and Expenditures and Supplies.

PARKER, CHARLES V.—Member of Committees on Agriculture; Corporations and Cooperative Associations; and Industrial Affairs and Labor.

PEARCE, PRINCE A.—Member of Committees on Judicial Department; Qualifications and Election of Delegates; and Rules and Procedure.

PINCUS, S. E.—Member of Committees on Bill of Rights; Future Amendment of the Constitution; and Miscellaneous Subjects.

POTTS, ERNEST D.—Member of Committees on Executive Department; Industrial Affairs and Labor; and Initiative, Referendum and Recall.

QUINN, FRANK J.—Member of Committees on Bill of Rights; Chicago and Cook County; Legislative Department; and Rules and Procedure.

REVELL, ALEXANDER H.—Member of Committees on Bill of Rights; Future Amendment of the Constitution; and Industrial Affairs and Labor.

RINAKER, THOMAS—Chairman of the Committee on Bill of Rights; and member of Committees on Legislative Department; and Phraseology and Style.

ROSENBERG, MICHAEL—Member of Committees on Corporations and Cooperative Associations; Education; and Qualifications and Election of Delegates.

SCANLAN, WILLIAM M.—Member of Committees on Bill of Rights; Municipal Government; and Public Works and Improvements.

SHANAHAN, DAVID E.—Member of Committees on Legislative Department; and Rules and Procedure.

SHAW, GUY L.—Member of Committees on Agriculture; Industrial Affairs and Labor; and Qualifications and Election of Delegates.

SHUEY, CHARLES A.—Member of Committees on Bill of Rights; Future Amendment of the Constitution; and Revenue, Taxation and Finance.

SIX, ROLLO—Member of Committees on Executive Department; Suffrage; and Expenditures and Supplies.

SMITH, ARTHUR M.—Chairman of the Committee on County and Township Government; and member of Committee on Chicago and Cook County.

SNEED, WILLIAM J.—Chairman of the Committee on Industrial Affairs and Labor; and member of Committee on Revenue, Taxation and Finance.

STAHL, HARRY H.—Member of Committees on Legislative Department; Municipal Government; and Expenditures and Supplies.

STEWART, WILLIAM—Member of Committees on Agriculture; Public Works and Improvements; and Suffrage.

SUTHERLAND, DOUGLAS—Member of Committees on Chicago and Cook County; and Revenue, Taxation and Finance.

TAFF, ALBERT E.—Member of Committees on County and Township Government; Initiative, Referendum and Recall; and Expenditures and Supplies.

TANNER, J. MACK—Member of Committees on Agriculture; Executive Department; and Military Affairs.

TODD, HIRAM E.—Member of Committees on Corporations and Cooperative Associations; Judicial Department; and Suffrage.

TORRANCE, H. E.—Member of Committees on Future Amendment of the Constitution; and Phraseology and Style.

TRAEGER, JOHN E.—Member of Committees on Chicago and Cook County; Legislative Department; and Suffrage.

TRAUTMANN, WILLIAM E.—Chairman of the Committee on Executive Department; and member of Committees on Schedule; and Rules and Procedure.

WALL, WILLIAM A.—Member of Committees on Bill of Rights; Chicago and Cook County; and Rules and Procedure.

WARREN, ALVIN—Member of Committees on Agriculture; Corporations and Cooperative Associations; and Revenue, Taxation and Finance.

WHITMAN, FRANK S.—Member of Committees on Agriculture; Executive Department; and Revenue, Taxation and Finance.

WILSON, WALTER H.—Chairman of the Committee on Expenditures and Supplies; and member of Committees on Chicago and Cook County; and Public Works and Improvements.

WOLFF, OSCAR—Chairman of the Committee on Qualifications and Election of Delegates; and member of Committees on Future Amendment of the Constitution; and Initiative, Referendum and Recall.

WOODWARD, CHARLES—Member of Committees on Chicago and Cook County; Municipal Government; and Qualifications and Election of Delegates.

WOODWARD, CHARLES E., President—Chairman of the Committee on Rules and Procedure; and ex-officio member of all Committees.

STATE OF ILLINOIS,
HALL OF THE HOUSE OF REPRESENTATIVES,
SPRINGFIELD, ILLINOIS.

TUESDAY, JANUARY 6, 1920.

12:00 o'Clock Noon.

Pursuant to an Act of the General Assembly of the State of Illinois, entitled "An Act to assemble a Convention to revise, alter or amend the Constitution of the State of Illinois," approved June 21, 1919, the delegates-elect to the Constitution Convention assembled in the hall of the House of Representatives at 12:00 o'clock m. and the Governor, Honorable Frank O. Lowden presided.

GOVERNOR LOWDEN. The Convention will come to order.

Prayer will be offered by the Rev. John T. Thomas, of Springfield, Illinois.

GOVERNOR LOWDEN. The chair will appoint Mr. A. C. Millspaugh as Provisional Secretary pending the temporary organization of the Convention, and will at this time direct that he call the roll of the delegates-elect compiled from the official returns on file in the office of the Secretary of State.

Thereupon the roll was called by districts as follows:

First District.—Composed of the First and Second Wards in the City of Chicago—Walter H. Wilson and Levy Mayer.

Second District.—Composed of the Twentieth Ward and parts of the Eleventh and Twelfth Wards in the City of Chicago—John J. Gorman and Michael F. Sullivan.

Third District.—Composed of the Third Ward and parts of the Fourth, Fifth and Sixth Wards in the City of Chicago—Edward H. Morris and Archibald J. Carey.

Fourth District.—Composed of the Twenty-ninth and Thirtieth Wards and part of the Thirty-first Ward in the City of Chicago—John E. Trager and George P. Lachford.

Fifth District.—Composed of parts of the Sixth and Seventh Wards in the City of Chicago—Abel Davis and Morton D. Hull.

Sixth District.—Composed of the Twenty-fourth and Twenty-sixth Wards and part of the Twenty-third and Twenty-fifth Wards in the City of Chicago, and parts of the towns of Evanston, Niles and New Trier, all in the county of Cook—Rufus C. Dawes and George A. Dupuy.

Seventh District.—Composed of the towns of Thornton, Bloom, Rich, Bremen, Orland, Lemont, Palos, Worth, Lyons, Stickney, Proviso, Leyden, Elk. Grove, Schaumberg, Hanover, Barrington, Palatine, Wheeling, Northfield, and parts of the towns of New Trier, Nils, Norwood Park and Maine, all in the county of Cook—Frederic R. DeYoung and Amos C. Miller.

Eighth District.—Composed of the counties of Boone, Lake and McHenry —Elam L. Clarke and Frank S. Whitman.

Ninth District.—Composed of parts of the Fourth, Fifth and Twelfth Wards in the City of Chicago—David E. Shanahan and Charles J. Michal.

Tenth District.—Composed of the counties of Ogle and Winnebago—Bruce H. Garrett and James Nichols.

Eleventh District.—Composed of the Thirty-second Ward and part of the Thirty-first Ward in the City of Chicago—Percival G. Baldwin and William H. Cruden.

Twelfth District.—Composed of the counties of Carroll, JoDaviess and Stephenson—Arthur M. Smith and Harry H. Stahl.

Thirteenth District.—Composed of the Eighth and Thirty-third Wards and part of the Seventh Ward in the City of Chicago, and part of the town of Calumet, all in the county of Cook—Oscar Wolff and Douglas Sutherland.

Fourteenth District.—Composed of the counties of Kane and Kendall—Lee Mighell and Rodney H. Brandon.

Fifteenth District.—Composed of parts of the Ninth, Tenth and Eleventh Wards in the City of Chicago—Ernst Kunde and S. E. Pincus.

Sixteenth District.—Composed of the counties of Livingston, Marshall, Putnam and Woodford—Charles H. Ireland and H. E. Torrance.

Seventeenth District.—Composed of the Nineteenth Ward and parts of the Ninth and Tenth Wards in the City of Chicago—Thomas F. Frole and Michael Iarussi.

Eighteenth District.—Composed of the county of Peoria—Hiram E. Todd and Frank J. Quinn.

Nineteenth District.—Composed of the Thirteenth and Thirty-fourth Wards and part of the Twelfth Ward in the City of Chicago, and town of Riverside, and part of the town of Cicero, all in the county of Cook—Martin J. O'Brien and Michael Rosenberg.

Twentieth District.—Composed of the counties of Grundy, Iroquois and Kankakee—Edward C. Curtis and A. F. Goodyear.

Twenty-first District.—Composed of the Fourteenth Ward and parts of the Seventeenth and Thirty-fifth Wards in the City of Chicago—George F. Lohman and Charles S. Cutting.

Twenty-second District.—Composed of the counties of Edgar and Vermilion—E. B. Coolley and William Stewart.

Twenty-third District.—Composed of the Fifteenth Ward and parts of the Sixteenth and Thirty-fifth Wards in the City of Chicago, and part of the town of Cicero, all in the county of Cook—William Ganschow and Charles Woodward.

Twenty-fourth District.—Composed of the counties of Champaign, Moultrie and Piatt—Henry M. Dunlap and Henry I. Green.

Twenty-fifth District.—Composed of the Twenty-seventh and Twenty-eighth Wards in the City of Chicago—M. A. Michaelson and Willard M. McEwen.

Twenty-sixth District.—Composed of the counties of Ford and McLean—Joseph W. Fifer and Thomas C. Kerrick.

Twenty-seventh District.—Composed of the Eighteenth Ward and parts of the Sixteenth and Seventh Wards in the City of Chicago—Edward J. Corcoran and Ernest D. Potts.

Twenty-eighth District.—Composed of the counties of DeWitt, Logan and Macon—Andrew H. Mills and Charles B. T. Moore.

Twenty-ninth District.—Composed of parts of the Twenty-first and Twenty-second Wards in the City of Chicago—Charles H. Hamill and Alexander H. Revell.

Thirtieth District.—Composed of the counties of Brown, Cass, Mason, Menard, Schuyler and Tazewell—Guy L. Shaw and Levi A. Jarman.

Thirty-first District.—Composed of parts of the Twenty-first, Twenty-second, Twenty-third and Twenty-fifth Wards in the City of Chicago—William H. Beckman and Eugene H. Dupee.

Thirty-second District.—Composed of the counties of Hancock, McDonough and Warren—David E. Mack and Philip E. Elting.

Thirty-third District.—Composed of the counties of Henderson, Mercer and Rock Island—Oscar E. Carlstrom and Cyrus E. Dietz.

Thirty-fourth District.—Composed of the counties of Clark, Coles and Douglas—William T. Hollenbeck and Charles A. Shuey.

Thirty-fifth District.—Composed of the counties of DeKalb, Lee and Whiteside—Edward H. Brewster and Alvin Warren.

Thirty-sixth District.—Composed of the counties of Adams, Calhoun, Pike and Scott—William S. Gray and Rollo Six.

Thirty-seventh District.—Composed of the counties of Bureau, Henry and Stark—Lawrence C. Johnson and Watts A. Johnson.

Thirty-eighth District.—Composed of the counties of Greene, Jersey, Macoupin and Montgomery—John L. Dryer and Thomas Rinaker.

Thirty-ninth District.—Composed of the county of LaSalle—Charles E. Woodward and William M. Scanlan.

Fortieth District.—Composed of the counties of Christian, Cumberland, Fayette and Shelby—William H. Chew and F. R. Dove.

Forty-first District.—Composed of the counties of DuPage and Will—George A. Barr and Edward Corlett.

Forty-second District.—Composed of the counties of Clay, Clinton, Effingham and Marion—J. Mack Tanner and Edgar E. Fyke.

Forty-third District.—Composed of the counties of Fulton and Knox—George C. Gale and A. E. Taff.

Forty-fourth District.—Composed of the counties of Jackson, Monroe, Perry, Randolph and Washington—S. W. McGuire and Henry W. Meinert.

Forty-fifth District.—Composed of the counties of Morgan and Sangamon—Clinton L. Conkling and James H. Paddock.

Forty-sixth District.—Composed of the counties of Jasper, Jefferson, Richland and Wayne—James P. Jack and G. Gale Gilbert.

Forty-seventh District.—Composed of the counties of Bond and Madison—John J. Brenholt, Jr. and Cicero J. Lindly.

Forty-eighth District.—Composed of the counties of Crawford, Edwards, Gallatin, Hardin, Lawrence, Wabash and White—Sylvester J. Gee and Prince A. Pearce.

Forty-ninth District.—Composed of the county of St. Clair—William E. Trautmann and Herbert F. Lill.

Fiftieth District.—Composed of the counties of Alexander, Franklin, Pulaski, Union and Williamson—William J. Sneed and William A. Wall.

Fifty-first District.—Composed of the counties of Hamilton, Johnson, Massac, Pope and Saline—George W. Hogan and Charles V. Parker.

PROVISIONAL SECRETARY MILLSPAUGH. I beg to announce that all delegates-elect as shown by the official returns on file in the office of the Secretary of State are present except Delegate-elect Michael F. Sullivan.

GOVERNOR LOWDEN. Gentlemen of the Convention: I am calling you to order pursuant to the statute enacted by the last General Assembly, pending your organization. I deem it appropriate at this time to make a few general remarks concerning this Convention. It is the most remarkable meeting having to do with government which has occurred in Illinois for fifty years.

Under our scheme of government a Constitutional Convention is always an impressive and important body. The theory of our government proceeds along different lines from that of any other which had, before the adoption of our Federal Constitution, been theretofore known. In the Constitution of recent times, a grant had been made by the sovereign to the people of certain rights. In other words, it had been regarded that the sovereign power resided in the head of the State, but when our fore-fathers began to devise a government suited to our conditions they decided that all sovereign power proceeds from the people and, therefore, when they framed the Federal Constitution they did not receive a grant of power from some one above the people, but only granted to their government certain powers over the people. In other words, our people believed that they should not divest themselves of all sovereign power and therefore they made a grant, so far as the Federal Consitution is concerned, of such power as they believed could be safely and wisely exercised by that government.

While it is true that our State Constitutions have proceeded upon a different principle, yet it so happens they have never granted all the powers they possessed to any government of their creation. They have limited the

exercise of their sovereign power, and the executive, legislative and judicial branch of the government has had certain well defined but limited powers and such powers only, the people still being the reservoir of the great part of the sovereign power which they originally possessed.

Therefore, a meeting of this kind becomes a momentous one because you here are not limited by any provision in any constitution beyond those powers which the State has granted to the Federal Government. You here represent, subject to ratification by the people, all the sovereign power which the people themselves possess. In that respect a Constitutional Convention differs widely from a meeting of the legislative branch of the government. This body today represents, subject to ratification by the people, all the sovereign power of more than six million men, women and children, and, therefore, it is the most important meeting having to do with the government which has been held in our State for a half century. I believe that no convention to frame the basic law of a great commonwealth has ever gathered under more auspicious circumstances than the convening of this Convention. I know of no similar body that has ever met in this country whose personnel is higher than the personnel of this Convention. I am sure that no body of men was ever called upon for the performance of so solemn and so important a duty as you have been called upon, or has ever met in a finer spirit or purpose than the spirit and purpose which actuates you today.

I hope that the work of this great Convention which may determine the form of our government and upon which may depend the security of our lives and our liberty for another half century shall realize the high promise with which it opens.

Now, gentlemen of the Convention, I shall be glad to proceed to the temporary organization of the Convention, if that is your will.

Mr. LINDLY (Bond). I have the pleasure of presenting as Temporary Chairman of this Convention, the name of a man of acknowledged ability, a prominent lawyer, a close student of and eminent authority on constitutional law; a man who is loved and respected and has the confidence of all who know him, the Honorable Charles E. Woodward, of LaSalle County, Illinois. (Applause).

GOVERNOR LOWDEN. Are there any further nominations for Temporary Chairman? If not, all who favor the election of Charles E. Woodward as Temporary Chairman will answer to your names upon the call of the roll.

(Roll called).

Mr. QUINN (Peoria) (During roll call). For those who were not invited to your caucus, I desire to say that I regret it was necessary to hold a caucus to determine the choice of President of the Convention. While I regret that such procedure was deemed necessary, I want to say that personally and without any reservations I agree in the choice of the caucus and vote for Mr. Woodward, not because he was selected in caucus, but because I believe he is eminently fitted for the position. I vote "aye." (Applause).

(Roll call concluded).

Votes cast, 99; for Mr. Woodward, 99.

GOVERNOR LOWDEN. On this question of the selection of the Temporary President the yeas are 99 and the nays none, and the Chair declares Mr. Woodward the Temporary President of the Convention.

Mr. TRAUTMANN (St. Clair). I offer the following resolution and move its adoption:

RESOLUTION No. 1.

Resolved, That a committee of three members be appointed by the Governor to conduct the Temporary President to the chair.

(Resolution adopted).

GOVERNOR LOWDEN. I will appoint Honorable William E. Trautmann of St. Clair, Honorable Joseph W. Fifer of McLean, and Honorable Frank Quinn of Peoria, as a committee to escort Temporary President-elect Woodward to the chair.

(Committee returns with Temporary President-elect, Honorable Charles E. Woodward).

GOVERNOR LOWDEN. Gentlemen of the Convention, I have the honor of presenting to you your Temporary President, the Honorable Charles E. Woodward. (Applause).

TEMPORARY PRESIDENT WOODWARD. Governor Lowden and gentlemen of the Convention: I thank you sincerely for the high honor which you have conferred upon me. It is a high honor because the occasion which calls us together is a rare one. It is given only once in a generation for the representatives of the people to be called together to formulate the fundamental law for succeeding generations. It is an honor to anyone who is chosen to preside over the deliberations of a convention whose work will have such far-reaching influence, and I thank you most sincerely for that honor.

Not only is the occasion rare, but the time in which we are convened is a most critical one. The world is just emerging from chaos. The fabric of our social structure is rent and torn. Discontented and turbulent spirits would undermine our institutions. At a time of political ferment and social unrest this Convention is called in a great State to formulate its fundamental law; and, therefore, a solemn and serious responsibility devolves upon us, and upon each of us. We are here to demonstrate in a concrete way the principles which have made this a great, free and prosperous nation. It is for us, I think, to raise the standard and rally the people to a consideration of the fundamentals of the American system. The Convention can offer a stimulus to bring home to honest minds the meaning and the value of our great inheritance of organized liberty. So, I say that a great and serious responsibility devolves upon us.

We are to write a fundamental law. We are not, as I conceive it, to hand out to the people for adoption or rejection a bundle of legislative enactments. To that end, the work which we produce should be a document—direct, simple and concise. It should be of fundamentals only. (Applause).

If we write a document which contains only the fundamentals of government, the framework and the skeleton, the outline of government, we will have set the states an example of sound principles in constitution making.

Conversing with you gentlemen as I have, knowing the serious and honest purpose for which you are gathered together, and the spirit that animates you, I have no doubt that this Convention will set an example to the states as to the methods of making constitutions.

With your help and with your cooperation and assistance, I am sure that we can make this Convention a notable one in the annals of Illinois. (Applause).

What is your further pleasure, gentlemen?

Mr. SCANLAN (LaSalle). I nominate for the position of Temporary Secretary of this Convention a man who is well fitted to fill the office, Mr. B. H. McCann.

TEMPORARY PRESIDENT WOODWARD. Are there any further nominations?

Mr. DOVE (Shelby). I have the honor to nominate for Temporary Secretary of this Convention Lieutenant Colonel John J. Bullington, of Taylorville, and I ask permission of this Convention to make a few remarks.

Lieutenant Colonel Bullington, although not affiliated with the dominant political party of this Convention is a man who also is well fitted to fill the position of Secretary. Although I myself am not affiliated with the dominant political party of this Convention I cheerfully and willingly acquiesced in its choice for presiding officer and I have indulged in the hope that this Convention could organize on practically unanimous grounds and I hope in presenting the name of Lieutenant Colonel Bullington that he may be chosen by practically a unanimous voice.

Deliberative bodies and especially a Constitutional Convention should be run and operated less along political lines than any other body. There may be some excuse, gentlemen, for a legislative body being conducted along party lines. They may have a definite program which they wish to

enact into law, but the very purpose of a Constitutional Convention is to protect the rights of the minority and, as a distinguished ex-president has said the very purpose of a Constitution is to safe-guard the rights of the minority from the enforced will of a majority.

There is no better time than here and now to see to it that this Convention is not organized along party and political lines. I think I am safe in saying that I voice the sentiment of every delegate here that our principal duty is to formulate a document which will have the support of this State. To that end it is necessary that we have the confidence of all parties. The constitutional rights of a Democrat, a Republican, a Prohibitionist, a Socialist and a Progressive are all the same.

The man whom I have the honor to nominate is not affiliated with the dominant political party of this Convention. His name was first suggested by an article in the Chicago Tribune appearing a few days after the election of delegates. Like our presiding officer, he made no active campaign for this position and did not seek the vote of a single delegate here. He is worthy and well fitted for this honor, and he has consented that his name be presented to this Convention. Born on a farm, earning his way through school and paying for his education out of his own pocket, he early learned the value of a dollar. Teaching school he early learned the meaning of discipline and entering upon the practice of his chosen profession, that of law, and waiting for a client, he early learned the meaning of patience. At the outbreak of the war Lieutenant Bullington donned the olive drab of America and entered his country's service to do his part in the great world war. It is such a man that I have the honor of presenting to you for your Temporary Secretary. With his lofty ideals, his patriotism and his qualifications, I hope that you can give him your support and, gentlemen, I thank you.

TEMPORARY PRESIDENT WOODWARD. Are there any further nominations? If not, I will declare nominations closed and the Secretary will please call the roll.

(Roll called).

Mr. DAVIS (Cook) (On roll call). Lieutenant Colonel Bullington commanded a battalion in my regiment in France. He there acquitted himself honorably in the service of his nation, and it gives me pleasure to cast my vote for Colonel Bullington. (Applause).

(Roll call continued).

Mr. MAYER (Cook) (On roll call). Entirely aside from the question of politics, which I hope will be annihilated from the discussion in this Convention, I know neither of the nominees, but for the purpose of showing non-partisanship I register my vote for Colonel Bullington.

(Roll call continued).

Mr. MICHAL (Cook) (On roll call). For the purpose of endorsing what Mr. Mayer of Cook county has said I cast my vote for Colonel Bullington.

(Roll call continued).

Mr. O'BRIEN (Cook) (On roll call). In voting as I intend to vote I feel that I am not yielding my party affiliations one iota, but rather lending encouragement to the spirit of non-partisanship which should obtain in this Convention. We are seeking efficiency in our work here and in recognition of the ability and experience of Mr. McCann I am pleased to record my vote for him.

(Roll call concluded).

Votes cast, 99; for Mr. McCann, 82; for Mr. Bullington, 17.

TEMPORARY PRESIDENT WOODWARD. On the question of the election of the Temporary Secretary Mr. McCann received 82 votes and Mr. Bullington 17 votes; Mr. McCann having received the majority of the votes of all delegates elected to this Convention is declared elected Temporary Secretary.

Mr. GREEN (Champaign). As part of the necessary procedure for the organization of this Convention I offer a resolution.

RESOLUTION No. 2.

Resolved, That a Committee on Credentials, consisting of seven members be appointed by the Temporary President, to report the names of delegates elected and entitled to seats in this Convention.

Mr. JARMAN (Schuyler). I rise to a point of order. The Constitution provides that the delegates shall take an oath and I think before we are qualified to do anything that the oath should be taken.

TEMPORARY PRESIDENT WOODWARD. Before we can have the oath administered, I think the proper proceeding would be to have a Committee on Credentials appointed and have that committee report and then the Convention may know who are entitled to seats in the Convention and to whom the oath may be administered. The question is on the adoption of the resolution.

(Resolution adopted).

TEMPORARY PRESIDENT WOODWARD. The Chair will appoint on the committee just authorized by the resolution adopted Messrs. Green, Hamill, Hogan, Moore, Mighell, O'Brien and Traeger.

Mr. BARR (Will). While the Credentials Committee is out and in order that the oath may be taken, I move that the following resolution be adopted:

RESOLUTION No. 3.

Resolved, That a committee of eight members be appointed by the Temporary President to call upon the Judge of the Circuit Court of Sangamon County and request him to administer the oath of office to the delegates-elect of the Constitutional Convention.

(Resolution adopted).

TEMPORARY PRESIDENT WOODWARD. The Chair will appoint upon that committee Messrs. Barr, Conkling, Gee, Cutting, Carlstrom, Morris, Mayer and Pearce.

The members of the committee will retire to the Speaker's room in the rear.

There will be distributed on the desks of the various members blank forms of oath to be signed by the delegates. Will you kindly sign on the red line?

Mr. GREEN (Champaign). Your Committee on Credentials has laid on the Secretary's table its report.

TEMPORARY PRESIDENT WOODWARD. The Secretary will read the report of the committee.

COMMITTEE REPORT.

Your Committee on Credentials reports the names of Delegates elected and entitled to seats in this Convention as follows:

District.	Name.	Address.	County.	Party.
1	Walter H. Wilson	2619 Prairie Av., Chicago	Cook	Rep.
	Levy Mayer	Blackstone Hotel, Chicago	..do	Dem.
2	John J. Gorman	1633 Jackson Boul., Chicago	..do	Rep.
	Michael F. Sullivan	1611 W. Jackson Boul., Chicago	..do	Dem.
3	Edward H. Morris	3757 Vernon Av., Chicago	..do	Rep.
	Archibald J. Carey	3428 Vernon Av., Chicago	..do	Rep.
4	John E. Traeger	921 W. 54th Pl., Chicago	..do	Dem.
	George P. Latchford	4532 Emerald Av., Chicago	..do	Dem.
5	Abel Davis	5125 Ellis Av., Chicago	..do	Rep.
	Morton D. Hull	4855 Woodlawn Ave., Chicago	..do	Rep.
6	Rufus C. Dawes	1800 Sheridan Rd., Evanston	..do	Rep.
	George A. Dupuy	4526 N. Paulina St., Chicago	..do	Rep.
7	Frederic R. DeYoung	50 E. 155th St., Harvey	..do	Rep.
	Amos C. Miller	241 Melrose Av., Kenilworth	..do	Rep.
8	Elam L. Clarke	Waukegan	Lake	Rep.
	Frank S. Whitman	Belvidere	Boone	Rep.
9	David E. Shanahan	3315 S. Western Boul., Chicago	Cook	Rep.
	Charles J. Michal	2410 S. Kedzie Av., Chicago	..do	Dem.

District.	Name.	Address.	County.	Party.
10	Bruce H. Garrett	Rockford	Winnebago	Rep.
	James Nichols	Polo	Ogle	Rep.
11	Percival G. Baldwin	2017 W. 70th St., Chicago	Cook	Rep.
	William H. Cruden	10204 Wallace St., Chicago	..do	Rep.
12	Arthur M. Smith	Stockton	JoDaviess	Rep.
	Harry H. Stahl	Freeport	Stephenson	Rep.
13	Oscar Wolff	10611 Av. H., Chicago	Cook	Rep.
	Douglas Sutherland	6558 Minerva Av., Chicago	..do	Rep.
14	Lee Mighell	Aurora	Kane	Rep.
	Rodney H. Brandon	Mooseheart	..do	Rep.
15	Ernst Kunde	2025 S. Halsted St., Chicago	Cook	Rep.
	S. E. Pincus	836 W. 14th St., Chicago	..do	Dem.
16	Charles H. Ireland	Washburn	Woodford	Rep.
	H. E. Torrance	Pontiac	Livingston	Rep.
17	Thomas F. Frole	1140 W. Taylor St., Chicago	Cook	Dem.
	Michael Iarussi	761 W. Taylor St., Chicago	..do	Dem.
18	Hiram E. Todd	Peoria	Peoria	Rep.
	Frank J. Quinn	..do	..do	Dem.
19	Martin J. O'Brien	3845 Flournoy St., Chicago	Cook	Dem.
	Michael Rosenberg	1250 Independence Boul., Chicago	..do	Dem.
20	Edward C. Curtis	Grant Park	Kankakee	Rep.
	A. F. Goodyear	Watseka	Iroquois	Rep.
21	George F. Lohman	566 N. Long Av., Chicago	Cook	Rep.
	Charles S. Cutting	307 N. Waller Av., Chicago	..do	Rep.
22	E. B. Coolley	Danville	Vermilion	Rep.
	William Stewart	Paris	Edgar	Rep.
23	William Ganschow	2156 Pierce Av., Chicago	Cook	Rep.
	Charles Woodward	225 S. Scoville Av., Oak Park	..do	Rep.
24	Henry M. Dunlap	Savoy	Champaign	Rep.
	Henry I. Green	Urbana	..do	Rep.
25	M. A. Michaelson	3018 Palmer Sq., Chicago	Cook	Rep.
	Willard M. McEwen	3633 N. Springfield Av., Chicago	..do	Rep.
26	Joseph W. Fifer	Bloomington	McLean	Rep.
	Thomas C. Kerrick	..do	..do	Rep.
27	Edward J. Corcoran	323 S. Peoria St., Chicago	Cook	Dem.
	Ernest D. Potts	21 N. Ashland Boul., Chicago	..do	Dem.
28	Andrew H. Mills	Decatur	Macon	Rep.
	Charles B. T. Moore	..do	..do	Rep.
29	Charles H. Hamill	199 Lake Shore Drive, Chicago	Cook	Rep.
	Alexander H. Revell	842 N. Michigan Av., Chicago	..do	Rep.
30	Guy L. Shaw	Beardstown	Cass	Rep.
	Lewis A. Jarman	Rushville	Schuyler	Rep.
31	William H. Beckman	2468 Orchard St., Chicago	Cook	Rep.
	Eugene H. Dupee	534 Aldine Av., Chicago	..do	Rep.
32	David E. Mack	Carthage	Hancock	Rep.
	Philip E. Elting	Macomb	McDonough	Rep.
33	Oscar E. Carlstrom	Aledo	Mercer	Rep.
	Cyrus E. Dietz	Moline	Rock Island	Rep.
34	Wm. T. Hollenbeck	Marshall	Clark	Rep.
	Charles A. Shuey	Charleston	Coles	Rep.
35	Edward H. Brewster	Dixon	Lee	Rep.
	Alvin Warren	Leland	DeKalb	Rep.
36	William S. Gray	Coatsburg	Adams	Rep.
	Rollo Six	Barry	Pike	Dem.
37	Lawrence C. Johnson	Galva	Henry	Rep.
	Watts A. Johnson	Princeton	Bureau	Rep.
38	John L. Dryer	Hillsboro	Montgomery	Rep.
	Thos. Rinaker	Carlinville	Macoupin	Rep.
39	Charles E. Woodward	Ottawa	LaSalle	Rep.
	William M. Scanlan	Peru	..do	Rep.
40	William H. Chew	Shelbyville	Shelby	Rep.
	F. R. Dove	..do	..do	Dem
41	George A. Barr	Joliet	Will	Rep.
	Edward Corlett	..do	..do	Rep.
42	J. Mack Tanner	Flora	Clay	Rep.
	Edgar E. Fyke	Centralia	Marion	Dem.
43	George C. Gale	Galesburg	Knox	Rep.
	A. E. Taff	Canton	Fulton	Rep.
44	S. W. McGuire	Sparta	Randolph	Rep.
	Henry W. Meinert	Hoyleton	Washington	Rep.
45	Clinton L. Conkling	Springfield	Sangamon	Rep.
	James H. Paddock	..do	..do	Rep.
46	James P. Jack	Newton	Jasper	Rep.
	G. Gale Gilbert	Mt. Vernon	Jefferson	Rep.
47	John J. Brenholt., Jr	Alton	Madison	Rep.
	Cicero J. Lindly	Greenville	Bond	Rep.

District.	Name.	Address.	County.	Party.
48	Sylvester J. Gee	Lawrenceville	Lawrence	Rep.
	Prince A. Pearce	Carmi	White	Dem.
49	William E. Trautmann	R. R. No. 2, East St. Louis	St. Clair	Rep.
	Herbert F. Lill	Mascoutah	do	Rep.
50	William J. Sneed	Herrin	Williamson	Rep.
	William A. Wall	Mound City	Pulaski	Rep.
51	George W. Hogan	McLeansboro	Hamilton	Rep.
	Charles V. Parker	Harrisburg	Saline	Rep.

Respectfully submitted,

(Signed) HENRY I. GREEN,
CHARLES H. HAMILL,
GEORGE W. HOGAN,
JOHN E. TRAEGER,
MARTIN J. O'BRIEN,
C. B. T. MOORE,
LEE MIGHELL,
Committee.

Mr. GREEN (Champaign). I move you that the names of the persons contained in this report be entitled to sit in this Convention and that the report of the Committee on Credentials be concurred in.

(Motion prevailed).

Mr. BARR (Will). Mr. President, your committee is ready to report and presents Judge Smith of the Circuit Court of Sangamon County who will administer the oath to the delegates-elect.

JUDGE SMITH. The delegates-elect of the Constitutional Convention now convened in pursuance of an Act of the General Assembly of the State of Illinois approved April 21, 1919, will now take upon themselves the oath required by law as to your qualifications to the office to which you are elected.

You will raise your right hand and say "I," repeat your name, "do solemnly swear that I will support the Constitution of the United States and of the State of Illinois, and that I will faithfully discharge my duties as a member of this Convention."

Mr. LINDLY (Bond). I desire to offer the following resolution and move its adoption:

RESOLUTION No. 4.

Resolved, That the Convention now proceed to the election of a President and Secretary.

TEMPORARY PRESIDENT WOODWARD. Will Delegate Trautmann of St. Clair County please take the chair.

Mr. TRAUTMANN (St. Clair). Nominations are now in order for Permanent President of the Convention.

Mr. LINDLY (Bond). The unanimous election of the Temporary President by this body has been such an expression of confidence that I deem it unnecessary to say the many pleasant things about him that I had intended, and, therefore, nominate the Temporary President for Permanent President of this Convention.

Mr. TRAUTMANN (St. Clair). Are there any further nominations? If not, I will declare nominations closed and the Secretary will call the roll for the election of a Permanent President.

(Roll called).

Votes cast, 98; for Mr. Woodward, 98.

Mr. TRAUTMANN (St. Clair). Mr. Charles E. Woodward having received a majority vote of the delegates elected to this Convention I declare him duly elected Permanent President and without any formal motion I will appoint Delegates Curtis, Rinaker and Pearce to escort your Permanent President to the chair.

Mr. CURTIS (Kankakee). Your committee takes pleasure in presenting the Honorable Charles E. Woodward, your Permanent President.

PRESIDENT WOODWARD. Gentlemen, again I thank you.

Mr. SCANLAN (LaSalle). Mr. President, I nominate B. H. McCann as Permanent Secretary of the Convention.

THE PRESIDENT. If there are no further nominations, I will declare nominations closed. The roll will be called upon the election of a Permanent Secretary.

(Roll called).

Votes cast, 98; for Mr. McCann, 98.

THE PRESIDENT. Mr. McCann having received a majority of the votes of the delegates elected for the office of Permanent Secretary and no other person having received any votes, I declare Mr. B. H. McCann elected Permanent Secretary of the Convention.

Mr. GALE (Knox). I offer the following resolution and move its adoption:

RESOLUTION No. 5.

Resolved, That a committee of ten members, of which the President shall be chairman, be appointed by the President, to prepare and report rules and procedure, for the government of this Convention. I move the adoption of the resolution.

(The motion prevailed).

Mr. BRENHOLT (Madison). I move you that the Convention take a recess until three-thirty o'clock this afternoon and at that time that we proceed to the selection of seats.

Motion prevailed and the Convention took a recess until three-thirty o'clock p. m. of the same day.

THREE-THIRTY O'CLOCK P. M.

The hour of three-thirty o'clock p. m. having arrived the Convention resumed its session.

The President presiding.

Mr. CORLETT (Will). I offer the following resolution and move its adoption:

RESOLUTION No. 6.

Resolved, That the Secretary, immediately after the passage of this resolution, place in a box the name of each delegate on separate slips of paper; that he then proceed, in the presence of the Convention, to draw from said box one of the slips at a time, and as each slip is drawn he shall announce the name of the delegate upon it, who shall then and there choose his permanent seat in the Convention: *Provided*, that before the drawing commences the President shall cause every seat to be vacated, *and provided further*, that Hon. Joseph W. Fifer, be accorded the privilege of selecting his seat before the drawing commences.

(Resolution adopted).

Mr. FIFER (McLean). Mr. President and gentlemen of the Convention: I wish the members of this Convention to know my sense of obligation for the courtesy they have so generously extended to me. I appreciate the privilege of choosing my own seat, but I appreciate far more the generous sympathy that goes with your act.

When I was made acquainted with the fact that this privilege was to be granted me, I appealed to my dear old friend who sits to my left, (Shanahan) for many years the Speaker of the House of Representatives, a position he has held so long that the memory of man runneth not to the contrary. He knows more things and knows them better than any man in Illinois and he has been here so long that he looks as familiar as the real estate around Springfield. I appeal to him to select for me the best seat on this floor. (Applause). He chose a seat in the first row and it is the only mistake, in my judgment, that he ever made. I chose a seat higher up. I want to be heard on some things that may come before this Convention and I always

flattered myself in believing that I was a little better on a higher platform. Lincoln once said that "a small cock on a high perch could crow as loud as anybody," and acting on that suggestion I have chosen this seat—the third from the end.

I thank you again and again for the courtesy which you have so generously extended to me. (Applause).

Mr. TRAUTMANN (St. Clair). I move that ex-Speakers Shanahan and Curtis be allowed to select their seats before the drawing commences.

Mr. RINAKER (Macoupin). I amend that motion to include Judge Cutting of Chicago.

(Motion prevailed).

Mr. IRELAND (Woodford). Delegates Torrence and Gilbert should be allowed to choose their seats down in front on account of their poor hearing.

THE PRESIDENT. If there is no objection it is so ordered.

Whereupon the Convention proceeded upon the order of drawing seats.

THE PRESIDENT. You will notice in the front of your desks a little space for a slip of paper. The Secretary requests that you write your name and place the slip of paper in this little space on the desk in order that they may be properly marked at a later time.

The Chair is ready to announce the Committee on Rules and Procedure as follows: President Woodward, Chairman; Delegates Green, Shanahan, Curtis, Hamill, Trautmann, Gale, Wall, Quinn and Pearce.

The Chair would announce further that the Legislative Reference Bureau has procured for each delegate a copy of a book by Mr. Kettleborough, containing copies of the constitutions of all other states. This book is now in the post office over to my right and can be obtained by the delegates calling there. The post master has not had time to distribute the books. It may be that you will receive a book with some one else's name on it but they are all identical.

Mr. GREEN (Champaign). I wish to present a motion and by way of some preliminary explanation would like to be heard for a minute.

This Convention met at twelve o'clock on this day. It has accomplished quite as much, if not more, than could have been reasonably expected under any circumstances. It has met under most auspicious circumstances and its every act has been expressed of a most harmonious and determined purpose.

Occasionally, perhaps, a discordant note reflective upon some preliminary proceeding may have been heard, but in view of the transactions of this day, I am sure that every delegate agrees that we are to be congratulated upon the ultimate results and that any misgivings as to procedure are buried in the common sentiment of cooperation which actuates this body now.

A Committee on Rules and Procedure has been announced and appointed for the orderly procedure of this Convention. Of necessity, hard work is given to this committee, which work must be discharged before this body can begin to function properly and to its ultimate purpose. Inquiry has been made of me as to the time within which it might be expected this committee could report. There has been some inquiry as to the term of adjournment which should be allowed within which this committee might complete its preliminary labors. After gathering the general consensus of opinion I believe a fair expression of the composite judgment of this body is that if by one week from tomorrow this committee is ready with its report it will have done well and that time, I believe, should be satisfactory. That period of time is certainly a measurably short one when we make comparison with the progress which has been made by this Convention in its first day's session and as compared to the Convention of 1870 which did not accomplish as much in weeks as this body has accomplished in hours.

In order, therefore, that the business of this Convention may proceed with the least inconvenience to the delegates and that the Committee on Rules may have an opportunity to sit and hear the suggestions of each and every delegate in this body who may have suggestions to make, Mr. President, I move you that this body now adjourn until ten o'clock Wednesday morning, January 14th next, one week from tomorrow.

Mr. WALL (Pulaski). I would like to make one suggestion. I think when the rules are tentatively made if they can be made in time so that printed copies can be sent to the delegates, that should be done so that when we return we will have had read the rules before we are ready to take up the question of their adoption.

Mr. MAYER (Cook). If an outline of the rules is going to be submitted in advance to every member—and I think it would be wise to have that done —the question occurs to me whether next Wednesday a week will not be too early. I don't know that the committee will go into immediate session to formulate rules. The rules are of very great and controlling importance. I think it would be well for the members to have the rules before them three or four days before we return. It will shorten the discussion and, speaking entirely for myself, I would like a copy of the rules three or four days before I come here. It is an intellectual difficulty to analyze the rules and I throw it out as a suggestion as to the advisability of extending the time when we reconvene. I cannot anticipate that I can comprehend the far reaching effect of the rules unless I have three or four days to consider them before voting on them.

Mr. WHITMAN (Boone). We have just heard that it will be impossible to have these rules ready before the 14th and I don't see how they could mail them three or four days ahead of time unless we adjourn to a later date.

Mr. MAYER (Cook). I move you, Mr. President, that we adjourn until two weeks from yesterday—January 19th at ten o'clock a. m.

Mr. PADDOCK (Sangamon). Make it two weeks from today.

Mr. MAYER (Cook). I will make it two weeks from today.

Mr. GREEN (Champaign). There is no particular controlling time in the minds of the committee, but it was thought by some that there would be adverse criticism if a long adjournment were taken. There is no disposition to want to reconvene on Wednesday if it is the judgment of this body that a longer adjournment should be taken.

Mr. MICHAELSON (Cook). I will agree to the amendment if the suggestion made by Mr. Mayer of Cook is carried out, that the delegates be provided with a set of rules three or four days before we reconvene. If that impedes the original motion to adjourn I don't make it as a motion, but, I understand that is a part of the original motion.

THE PRESIDENT. Yes, it is a part of the original motion.

Mr. MAYER (Cook). I move that when this Convention adjourns today we reconvene at ten o'clock two weeks from today and that a printed copy of the tentative rules be mailed to each member at least four days prior to the day fixed for reconvening.

Mr. DUNLAP (Champaign). If we are to adjourn until two weeks from today and then adjourn again on the question of the appointment of committees, which would require possibly a further two weeks adjournment, how long will this Convention be in session before it gets down to work? The question of forming rules for this Convention will not require so long a time inasmuch as rules have been, at least a suggestion of rules has been prepared for this committee to work upon, and if this work were to be done quickly we could convene next week and pass upon them and then take an adjournment for the President to appoint the committees. If it takes as long to organize this Convention as it sometimes does the General Assembly, the people of the State will have the same opinion of this Convention that they have sometimes of the delays in the General Assembly—that is, that those delays are needless.

I am opposed to the amendment that will carry us beyond Wednesday next. We have made a splendid start. I don't think anybody would have any right to criticise the actions of this Convention up to date, and I hope we will continue to deserve the esteem of every citizen of Illinois. I think it would be a mistake to adjourn for a longer time than a week from Wednesday. I believe if we get busy we can have the Rules Committee report a week from Wednesday, and have that in such shape that it will be adopted speedily by this Convention, and that the President will be free to appoint

the committees provided for under the rules. I object to the amendment offered by the delegate from Cook (Mayer) for that reason.

Mr. RINAKER (Macoupin). I agree with the substance said by Delegate Dunlap and it occurs to me that the solution of the matter would be that this Convention instead of adjourning today stay in session tomorrow. I would inquire whether the Committee on Rules could not by tomorrow morning give at least the names of the principal committees which must be appointed. There would be no dispute about those so that the President may ask for the committee requests from the members as to at least those committees and that during the adjournment the President could be considering the committee appointments and as well the Committee on Rules could be considering rules and report back in two weeks. That would afford ample time for a draft of the rules to be sent out and the President would have time to consider members for the principal committees. It would be a mistake for us to spoil the good record we have made by having two two weeks adjournments or two one week adjournments. It seems to me it would be better to spend a couple of days here now and get a partial report and get the work started under way than to adjourn now and adjourn later.

Mr. SHANAHAN (Cook). There seems to be some difference of opinion as to how long it will take the committee to prepare rules for this Convention. The gentleman from Macoupin was of the opinion that the committee could perform its work in forty-eight hours and report back.

Mr. RINAKER (Macoupin). No, report only the names of certain committees tomorrow.

Mr. SHANAHAN (Cook). Report back within forty-eight hours as to a part of the rules. Haste sometimes makes waste, and I doubt the wisdom of attempting to report to this body part of the rules of the Convention. I think it is much better for this Committee on Rules to give time and discussion to the matter and report the full rules and procedure to the Convention. The Convention can then take up the rules and discuss them. If this committee starts to work this evening they could get out a report in three or four days. The trouble is that Sunday intervenes and I understand that a number of the delegates on the floor desire to be absent next Tuesday on account of bank directors meetings and the election of officers in banks throughout the State. The idea was that the adjournment go over until Wednesday. If the Convention meets on Wednesday and the report of this committee is read, they can discuss the rules on Wednesday and Thursday and the President can ask the members to send in their lists of committee assignments and the President can proceed to do the necessary work of making up committees.

We might as well be practical about this. It is impossible for the appointing power, the President of this Convention or the Committee on Committees to make committee assignments without having a personal interview with the members of the Convention. I doubt very much if there are a dozen members on the floor of this house now who know what committee they desire to serve on. I doubt if you gentlemen know what committees there ought to be in the Convention. Until it is finally decided what committees we are to have it is impossible for the members to make a selection. I want to say to you gentlemen that it is impossible for the presiding officer of this Convention to make the proper assignments to committees until after he has had a personal interview with the various members to find out where they prefer to work and where they can perform the best service.

I have always been opposed to long adjournments. The gentleman from Champaign (Dunlap) is right. If we are to have a long adjournment the people will begin to think we are fooling away our time, but it is better to lose a few days now than lose weeks later on. The greatest work that can be done now is to have the proper rules and the proper procedure adopted for this Convention and no one or two or a dozen men know at this time what the proper procedure or what the proper rules for the Convention are. If we could continue in session without the adjournment over Sunday perhaps this committee might be able to report by Saturday. I hope that the Convention will take a short recess and not recess for two weeks. It is

much better for this committee to bring its report and have it printed and on the desks of the members when they make their report next Tuesday and Wednesday and then the Convention can take up these rules and discuss them for a day or two before they are adopted.

Mr. CURTIS (Kankakee). I am in favor of a short hard working session. I think we ought to work from Monday evening until Friday noon. I think we might adjourn for one week and during that time the Committee on Rules could make a report. We might have a meeting of the Committee on the Whole and commence hearing some of the important subjects that will come before the Convention. I don't think that we should adjourn for more than one week.

Mr. JARMAN (Schuyler). I would like to offer a resolution.

THE PRESIDENT. There is a motion before the Convention.

Mr. JARMAN (Schuyler). It is a motion for adjournment. It is necessary to provide for the minor officers of this Convention and some one has to perform that duty. The Convention has taken no steps in that direction. There are two dozen minor offices to be filled and there should be some committee appointed to report to the Convention what employes the Convention needs.

Mr. LINDLY (Bond). Doesn't that interfere with the provisions of the Rules Committee?

Mr. JARMAN (Schuyler). I think not.

Mr. LINDLY (Bond). When the rules are adopted, all of these things are to be taken care of.

Mr. TRAUTMANN (St. Clair). I rise to a point of order. A motion to adjourn is before the Convention and nothing can come up before this Convention except the question of fixing the time of the adjournment.

THE PRESIDENT. The point of order is well taken.

Mr. JARMAN (Schuyler). It seems to me that the members have advised themselves as to procedure and that the Rules Committee could report within two days and this Convention should remain in session until the rules are adopted. I don't see why it should take the Rules Committee a whole week to draw up a set of rules for this Convention. They are well defined and therefore they should be able to do it within twenty-four hours as well as they can within two weeks.

THE PRESIDENT. If there is no further discussion the question is upon the adoption of the amendment of the gentleman from Cook (Mayer) to the motion of the gentleman from Champaign (Green).

(Amendment lost).

THE PRESIDENT. The question now recurs on the adoption of the motion of the gentleman from Champaign (Green) that the Convention adjourn until Wednesday, January 14, 1920, at ten o'clock a. m.

(Motion prevailed).

THE PRESIDENT. The Convention stands adjourned until Wednesday, January 14, 1920, at ten o'clock a. m.

WEDNESDAY, JANUARY 14, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President presiding.

Prayer by the Rev. S. W. McFadden.

The Journal of Tuesday, January 6, was being read, when on motion of Mr. Lindly (Bond), the further reading of the same was dispensed with and it was ordered to stand approved.

THE PRESIDENT. The President desires to place before the Convention the report of the Committee on Rules and Procedure. The Secretary will read the report.

Mr. DAVIS (Cook). Will amendments be offered to sections as read or be offered after the entire set of rules has been presented?

THE PRESIDENT. That is entirely in the hands of the Convention.

Mr. DAVIS (Cook). I move that amendments be offered as each rule is read by the Secretary.

Mr. DUNLAP (Champaign). I suggest that if we have the entire reading of a section or rule and any member desires to offer an amendment to it it will save some time in getting the whole proposition before us before we take up the individual propositions.

Mr. TRAUTMANN (St. Clair). It seems to me that it is customary in all deliberative bodies to read the report of the committee before you attempt to amend it. The report has not been read yet, and I suggest you read it and then adopt amendments.

Mr. RINAKER (Macoupin). Will it not facilitate procedure if the reading of the rules in full be dispensed with and the Secretary be directed to read only such rules as are amended and then following the suggestion of the gentleman from St. Clair (Trautmann) take up the separate amendments.

Mr. TRAUTMANN (St. Clair). I move as a substitute that the Clerk be instructed to read the report in full and thereafter amendments be taken up.

(Substitute motion adopted).

THE PRESIDENT. The Secretary will proceed to read the report.

COMMITTEE REPORT.

Your committee appointed to draft rules for the government of this Convention respectively reports as follows:

Three sessions of this committee were held daily following the adjournment on last Tuesday, until Friday evening, and on last Saturday a printed tentative draft of rules was placed in the mail addressed to each Delegate.

The committee met again on yesterday and considered suggestions which had been made to the members of the committee, and also suggestions which were at that time presented to it by various Delegates, for changes and modifications in the tentative draft of rules as originally framed.

As a result of the consideration and deliberations of your committee we respectively submit the following draft of rules for the government of the Convention during its sessions, and respectively move that the action of your committee be agreed to and said rules be formally approved and adopted.

CHARLES E. WOODWARD, *Chairman.*

I.

OFFICERS OF THE CONVENTION.

LIST.

1. The officers of the Convention shall be a President and a Secretary These officers shall be elected by a majority vote of all delegates elected to the Convention.

THE PRESIDENT.

2. The President shall take the chair each day at the hour to which the Convention shall have adjourned. He shall call the Convention to order and shall proceed to business in the manner prescribed by the rules.

3. The President shall preserve order and decorum; may speak to points of order in preference to other delegates, and shall decide questions of order, subject to an appeal to the Convention, on which appeal no delegate shall speak more than once, except by leave of the Convention.

4. He shall be *ex-officio* member and chairman of the Committee on Rules and Procedure, and shall be *ex-officio* member of all committees of the Convention to which he shall not have been specifically appointed.

5. He shall appoint all committees, except where the Convention shall otherwise order.

6. He may substitute any delegate to perform the duties of the Chair, but not for a longer time than one week, except by leave of the Convention.

7. He may vote on all elections or divisions called for by any delegate, and on all questions taken by yeas and nays, except on appeals from his decisions.

8. He shall examine and correct the Journal before it is read; and the same shall be printed and placed upon the desks of the delegates. He shall have general direction of the hall.

9. All writs, warrants and subpoenas issued by order of the Convention shall be under the hand of the President and attested by the Secretary.

10. In case of any disturbance or disorderly conduct on the floor of the Convention, in the lobby or galleries, by the spectators, the President or the chairman of the Committee of the Whole shall have power to order the floor, the lobby or galleries to be cleared of spectators.

11. The President shall appoint the Sergeant-at-Arms and all other employees, shall prescribe their duties and fix the hours of their employment. The number of such employees and their compensation shall be determined or fixed by resolution passed by a majority vote of the delegates elected to the Convention. The committee rooms shall be under the control of the President and shall be assigned by him to the several committees. All orders for the payment of salaries, mileage and other expenses shall be approved by the President. No extra compensation, allowance or perquisites shall be voted to any officer or employee of the Convention.

12. In the performance of their duties the Secretary and all employees shall be under the supervision of the President.

THE SECRETARY.

13. The Secretary shall keep the Journal of the Convention, and of the Committee of the Whole and shall superintend the printing thereof. He shall call the roll whenever it shall be ordered and record the vote. Subject to the control of the President he shall be the custodian of the records of the Convention, and under the direction of the President he shall perform the customary duties of clerks or secretaries of deliberative assemblies, and such other duties as shall be ordered by the Convention or the President.

SERGEANT-AT-ARMS.

14. Subject to the direction of the President, the Sergeant-at-Arms shall enforce the rules of the Convention. He shall be especially charged with enforcing the rules as to admission to the Convention hall.

II.

SESSIONS OF THE CONVENTION.

15. Ten o'clock in the morning shall be the standing hour to which the Convention shall adjourn unless otherwise ordered by a majority vote.

III.

PROPOSALS.

16. After the 1st day of March, 1920, no proposal shall be introduced except on the report or recommendation of a standing or select committee.

17. Delegates may introduce proposals by presenting the same from the floor of the Convention on the proper order of business. The proposals shall be sent in duplicate by the introducer to the Secretary's desk, numbered by the Secretary and handed to the President; if in proper form the same shall at the next session of the Convention, be read the first time and referred by the President to the appropriate committee; if such proposal is not in proper form, the same shall be by the President referred back to the introducer with an oral statement from the chair explaining defects in form.

"Each proposal shall be single as to subject matter, shall bear an appropriate title, and, when read and referred to committee, shall be printed and by title and number spread upon the Journal."

18. Proposals shall be in substantially the following form:

Constitutional Convention, Proposal No.....,1920
Introduced by Mr.....,Jan.....1920.

A proposal to (here insert title).

Resolved, That the following shall become a part of the Constitution of Illinois.

or

Resolved, That Section.....of Article.....of the Constitution of 1870 now in force be omitted from the proposed revised Constitution.

19. All provisions of the present Constitution shall be referred to the Appropriate Committees for consideration and report. The Committee on Rules and Procedure shall prepare a list designating the parts of the Constitution to be refered to each committee; and such list shall be reported to the Convention, and shall control unless the Convention shall otherwise determine.

20. When a committee has reported that no amendments should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all proposals for Constitutional amendment relating to that subject which have been referred to that committee shall be considered as rejected. The proposals affected by this rule shall, however, be reported by the committee to the Convention with a statement to this effect. All provisions of the present Constitution for which no amendment or substituted provision shall have been passed by the Convention, shall stand referred to the Committee on Phraseology and style, and by said committee combined and coordinated with the other proposals approved and passed by the Convention as constituting the revised Constitution as a unit, and incorporated in the report of the said committee as required by Paragraph 8 of Rule 22.

21. The several committees shall consider and report without unnecessary delay upon the respective matters referred to them by the Convention.

The Convention by a vote of a majority of the delegates elected thereto, may, upon the motion of any delegate, require any committee to report upon any proposal that has been committed to it, or may withdraw the proposal from the committee. Any proposal withdrawn from committee by a vote of the Convention shall be regarded as in the same parliamentary status as if reported favorably by the committee.

22. The regular order to be taken for proposals introduced in the Convention shall be as follows:

1. Introduction; first reading and reference to a committee by the President, unless otherwise ordered by a majority of the delegates present.
2. Report of committee and placing on the general orders.
3. Consideration in Committee of the Whole in order of reference.
4. Report by the Committee of the Whole to the Convention and reference by the Convention to the Committee on Phraseology and Style.
5. Report of Committee on Phraseology and Style upon the specific proposals referred to it.
6. Second reading; vote on passage, the vote to be taken by yeas and nays and entered on the Journal; no favorable action to be taken unless a majority of all the delegates elected shall have voted in favor of the same.
7. Re-reference to Committee on Phraseology and Style, for action as provided by Rule 20.
8. Report by Committee on Phraseology and Style, on all proposals as a unit.
9. Reference of the report of the Committee on Phraseology and Style to the Committee of the Whole where it shall be subject to amendment as to matter of form only.
10. Report by Committee of the Whole and by a vote of a majority of delegates elected to the Convention, placing on the order of third reading.
11. Third reading and passage as a whole. Upon such passage the yeas and nays shall be taken and entered on the Journal. A majority vote of all Delegates elected shall be required for passage and adoption. Upon third reading no amendments shall be in order without unanimous consent.

IV.

ORDER OF BUSINESS.

23. On the meeting of the Convention, the order of business shall be as follows:

Opening Prayer.
Reading of the Journal.
Special orders of the day.
Reports of Standing Committees.
Reports of Select Committees.
Introduction of proposals.
First reading and reference of proposals.
Second reading of proposals.
Motions and resolutions.
Unfinished business.
General orders of the day.

24. Any matter may be made a special order for a particular hour of any day, by a majority of the delegates elected. The Committee on Rules and Procedure may report a special order, which special order shall take the place of the regular order.

25. Any subject matter having been made the special order for a particular day, and not having been reached on that day, the same shall come up on the order of "Unfinished Business" the next succeeding session.

V.

DELEGATES.

26. No protest or petition contesting the election of any delegate shall be received or considered unless filed within fifteen days from and after the opening of the Convention.

27. No delegate shall absent himself from the sessions of the Convention unless he have leave or be ill or his absence be otherwise unavoidable.

28. No delegate shall name another delegate in debate.

29. No delegate shall speak more than once on the same question, without leave of the Convention, unless he be the mover of the matter pending or chairman of the committee which reported the same, in which case he shall be privileged to close the debate even though he may have already spoken or the previous question have been ordered.

30. No delegate shall indulge in the reading of newspapers during a session of the Convention. While the President is putting any question, while the Secretary is calling the roll, or while any delegate is speaking, no delegate shall walk out of or across the hall, entertain private discourse or pass between the Speaker and the Chair.

31. No person shall visit or remain at the Secretary's desk while the yeas and nays are being called.

32. After a question has been stated by the President, and the calling of the roll has been begun, the President shall not recognize a delegate for any purpose, except upon points of order, or questions of privilege, until after the announcement of the vote, but he shall preserve order and shall direct delegates who are not in their seats to resume the same.

33. An explanation of a vote shall not be in order, unless made before the Convention divides, or before the call of the yeas and nays is commenced.

VI.

COMMITTEES OF THE CONVENTION.

34. The President shall appoint the following standing committees:

Bill of Rights, consisting of 15 members.
Chicago and Cook County, consisting of 15 members.
Corporations and Cooperative Associations, consisting of 15 members.
County and Township Government, consisting of 11 members.
Distinction Between Constitutional and Legislative Subjects, consisting of 7 members.
Education, consisting of 9 members.
Executive Department, consisting of 15 members.
Expenditures and Supplies, consisting of 5 members.
Future Amendment of the Constitution, consisting of 11 members.
Industrial Affairs, Agriculture and Labor, consisting of 15 members.
Initiative, Referendum and Recall, consisting of 15 members.
Judicial Department, consisting of 15 members.
Legislative Department, consisting of 15 members.
Military Affairs, consisting of 9 members.
Miscellaneous Subjects, consisting of 11 members.
Municipal Government, consisting of 15 members.
Phraseology and Style, consisting of 7 members.
Public Works and Improvements, consisting of 9 members.
Qualifications and Election of Delegates, consisting of 9 members.
Revenue, Taxation and Finance, consisting of 15 members.
Rules and Procedure, consisting of 10 members including the President.
Schedule, consisting of 7 members.
Submission and Address, consisting of 15 members.
Suffrage, consisting of 9 members.

35. The first named member of any committee shall be the chairman.

36. No committee shall sit during the sessions of the Convention without special leave. All committee hearings shall be open to the public.

37. A majority of a committee shall constitute a quorum. All reports of committees shall be in writing and shall be signed by at least a majority of the members of the committee. Such reports when made shall be spread upon the Journal forthwith. All reports of committees upon proposals shall be accompanied by all the papers in relation thereto.

Every committee report upon proposals, shall be in proper sectional form and shall contain no reasons for such proposal, nor any recital of facts which may have led to the report; but the committee or a reporting minority thereof, if it choose, may present on separate paper a recital of facts with an argument, which, however, shall not be entered on the Journal, except when ordered by the Convention.

38. The report of a minority of any committee shall be received and printed in the Journal.

39. When any proposal is about to be considered by a committee, the introducer of such proposal shall be notified of the time and place where such proposal shall be considered by such committee.

40. The rules of the Convention shall be observed in all committees as far as may be applicable, and each committee shall keep a record of its proceedings.

41. The Committee on Expenditure and Supplies shall approve all bills entailing the expenditure of funds.

VII.

COMMITTEE OF THE WHOLE.

42. In forming a Committee of the Whole Convention, the President shall leave the Chair, and a chairman to preside in the committee shall be appointed by the President.

43. Reports of standing committees, when received by the Convention, shall lie on the table and be printed, and, when referred to the Committee of the Whole, they shall, unless otherwise ordered by the committee, be taken up in their order and shall be the standing order for the Committee of the Whole on each succeeding day. This rule shall not control in case a special order is adopted in accordance with the rules of the Convention.

44. When the Convention shall have arrived at the "General orders of the Day", it shall go into Committee of the Whole upon such orders, or upon a special order and, except in the absence of a special order, the Committee of the Whole shall consider, act upon or pass the general orders, according to the order of their reference.

45. Proposals submitted to the Committee of the Whole shall first be read through, and then read and acted upon by sections. All amendments shall be entered on separate paper, and so reported to the Convention by the chairman.

46. A motion that the committee arise shall always be in order and shall be decided without debate.

47. A motion to reconsider shall be in order in Committee of the Whole.

48. The rules of the Convention shall be observed in Committee of the Whole, so far as they may be applicable, except that the vote of a majority of said committee shall govern its action; it can not refer matters to any other committee; it can not adjourn; the previous question shall not be enforced; the yeas and nays shall not be called; a motion to postpone indefinitely shall not be in order; a member may speak more than once. A Journal of the proceedings in Committee of the Whole shall be kept as in Convention, and debates of the Committee of the Whole shall be reported in the same manner as debates in Convention.

49. The Committee of the Whole may at any time close debate, and bring on a direct vote on any pending proposition by a majority of two-thirds of the committee; and any motion to that end shall not be debatable.

50. A majority of all delegates elected to the Convention shall constitute a quorum of the Committee of the Whole. When it shall appear on a division that a quorum is not present, the chairman shall dissolve the committee and the President shall resume the Chair.

The committee shall have the same powers as the Convention to enforce the attendance of members; and the Secretary and Sergeant-at-Arms shall be the Secretary and Sergeant-at-Arms respectively of the Committee of the Whole.

VIII.

PUBLICATIONS.

51. Under the supervision of the Secretary a daily Journal shall be printed and placed upon the desks of the delegates. The debates of each day shall be printed under the supervision of the President and placed upon the desks of the delegates as promptly as possible.

IX.

MOTIONS.

52. All resolutions or motions calling for the appointment of committees, or involving the expenditure of money, or involving the right of a delegate to a seat in the Convention shall require the concurrence of a majority of all the delegates elected, with a yea and nay vote taken and entered on the Journal. No resolution or motion involving the expenditure of money shall be adopted without first having been referred to the Committee on Expenditures and Supplies for consideration and report.

53. No second shall be required to any motion presented to the Convention.

54. When a motion is made it shall be stated by the President, or being in writing, it shall be handed to the Secretary and read aloud before being debated.

55. Every motion shall be reduced to writing, if the President or any delegate shall request it, and shall be entered upon the Journal, together with the name of the delegate making it, unless withdrawn or ruled out of order by the President.

56. After a motion has been stated by the President or read by the Secretary, it shall be deemed to be in the possession of the Convention, but may be withdrawn at any time before decision or amendment, by leave of the Convention.

57. When a question is under debate, no motion shall be received but:

1. To adjourn.
2. To take a recess.
3. For a call of the convention.
4. To lay on the table.
5. For the previous question.

(1–5: Not amendable or debatable.)

6. To postpone indefinitely, not amendable but debatable.
7. To postpone to a day certain.
8. To commit.
9. To amend.

(7–9: Precludes debate on main question.)

Which several motions shall take precedence in the order in which they stand arranged. When a recess is taken during the pendency of any question, the consideration of such question shall be resumed upon reassembling, unless otherwise determined. No motion to postpone to a day certain, to commit, or to postpone indefinitely, being decided, shall be again allowed on the same day and at the same stage of the question.

58. A motion to lay any particular proposition on the table shall apply to that particular proposition only.

59. The previous question shall be put in this form:

"Shall the main question be now put?" And until it is decided, shall preclude all amendments or debate. When it is decided that the main question shall not now be put, the main question shall be considered as still remaining under debate.

The effect of the main question's being ordered shall be to put an end to all debate, and bring the Convention to a direct vote upon all amendments reported or pending in the inverse order in which they have been offered, and then upon the main question. After the motion for the previous question has prevailed, it shall not be in order to move for a call of the Convention unless it shall appear by yeas and nays that no quorum is present (and if a call of the Convention is ordered it shall continue in effect until the vote on the main question has been taken); or to move to adjourn prior to a decision of the main question; provided, if a motion to postpone or to commit is pending the only effect of the previous question shall be to bring the Convention to a vote upon such motion.

60. When a blank is to be filled, and different sums or times are proposed, the question shall first be put on the largest sum and longest time.

61. Any delegate may call for a division of the question, when divisible, but a motion to strike out and insert shall be indivisible.

62. When a question has been once put and carried in the affirmative or negative, it shall be in order for a member of the majority to move for reconsideration thereof, or give notice that he will make such motion, but no motion for the reconsideration of any vote shall be in order unless on the same or the next day of actual session of the Convention. A motion to reconsider shall take precedence of all other questions except a motion to adjourn.

63. No motion or proposition on a subject different from the one under consideration shall be admitted under color of an amendment or substitute.

X.

GENERAL RULES.

64. A majority of all delegates elected to the Convention shall constitute a quorum, but a smaller number may adjourn from day to day or for less time than one day, and compel the attendance of absent delegates. A call of the Convention may be made for the purpose of obtaining a quorum; or for the purpose of securing the attendance of absent delegates, even though a quorum be present.

65. Upon a call of the Convention, the names of the delegates shall be called by the Secretary and the absentees noted, after which the names of the absentees shall again be called, the doors shall then be shut, and those for whom insufficient or no excuses are made, may, by order of those present, be taken into custody as they appear, or may be sent for and taken into custody, wherever found by the Sergeant-at-arms. When a call of the Convention has been ordered, the Sergeant-at-arms shall permit no delegate to leave the hall of the Convention.

66. No person, other than delegates, officers and employees of the Convention, the elected State Officers of the Executive department, the Secretary to the Governor and the Judges and Clerk of the Supreme Court, shall be entitled to remain on the floor of the Convention while it is in session. Representatives of the Press while the Convention is in session shall have access to the galleries and places allotted to them by the President.

67. No smoking shall be allowed in the hall, lobbies or galleries.

68. Every delegate presenting a paper containing subject matter for the consideration of the Convention shall endorse the same with a brief statement of its subject or contents, adding his name.

69. Upon the demand of five delegates, which may be oral or in writing, and made before or after a viva voce vote, or before or after a division, the yeas and nays shall be taken on any question, and entered upon the Journal. Such demand shall be made before proceeding to other business.

70. Upon a call of the Convention for the yeas and nays on any question the names of the delegates shall be called in alphabetical order.

71. When the reading of a paper is called for, and the same is objected to by any delegate, the question shall be determined by a vote of the Convention.

72. No memorial, remonstrance or petition shall be printed in full in the daily Journal unless ordered by the Convention.

73. Whenever any delegate is about to speak in debate or deliver any matter to the Convention, he shall rise in his seat and respectfully address himself to "Mr. President," and confine himself to the question under debate, and avoid personalities, and no motion shall be considered in order unless made from the seat allotted to the delegate.

74. Any two or more delegates shall have the liberty to dissent from, and protest, in respectful language, against any act taken or resolution adopted which they shall think injurious to the public or any individual, and have the reasons for their dissent entered upon the Journal.

75. Questions shall be put substantially in this form, viz: "As many as are of the opinion that" (as the case may be) "say 'aye,'" and, after the affirmative vote is expressed, "As many as are of the contrary opinion say 'No'". If the President doubts, or if a division be called for, the Convention shall divide; those in the affirmative shall first rise from their seats, and afterwards those in the negative.

76. On all appeals from the decisions of the Chair, (which must be seconded) the question shall be "Shall the judgment of the Chair stand as the judgment of the Convention?" which shall be decided by a rising vote, unless otherwise ordered by the Convention.

77. No rule shall be suspended without the vote on roll call or division, of two-thirds of the delegates present; nor shall any rule be altered or amended without one day's notice being given of the motion thereof, and the vote on roll call of a majority of the delegates elected, but any amendment or alteration reported by the Committee on Rules and Procedure may be adopted at any time on roll call or division by a majority of the delegates elected.

78. The rules of parliamentary practice comprised in Cushing's Law and Practice of Legislative Assemblies, shall govern the Convention in all cases in which they are applicable and in which they are not inconsistent with the rules of the Convention.

79. The provisions of an act entitled: "An Act to assemble a Convention to revise, alter or amend the Constitution of the State of Illinois," approved June 21, 1919, shall obtain and control in all respects insofar as same applies to the acts or proceedings of this Convention, in the same manner as if such provision or provisions was or were incorporated herein as part hereof and as supplemental hereto. That no rule, act or proceeding of this Convention shall be construed to in any manner conflict with or contradict any of the provisions of said act.

THE PRESIDENT. The question is on the adoption of the report of the Committee on Rules and Procedure. Are there any remarks?

Mr. TRAUTMANN (St. Clair). I desire to call the attention of the Convention to a change that was made this morning in rule 77. "Two-thirds of the delegates elected" was changed to "a majority of the delegates elected." That will require a majority of the delegates elected to change this rule but it will still require two-thirds of the delegates present to suspend the rules.

Mr. MICHAELSON (Cook). I move that the Secretary now proceed to read each rule and that amendments be offered as each rule is completed.

THE PRESIDENT. Each section you mean?

Mr. MICHAELSON (Cook). Each section or each rule. We have in the submitted rules a proposition that is in line with what I suggest. In Article 7, under "Committee of the Whole" this: "A proposal shall first be read through and then read and acted upon by sections." There is no reason why the Convention should not proceed in that manner on such an important matter as the adoption of the rules. There will be much confusion if we jump from rule to rule—starting with rule 1 and then going to 39 and back to 5 and then to 64. If we take them in their regular order and adopt or amend them there will be no confusion. I am making this as a motion in order to save time.

THE PRESIDENT. It is moved that the Secretary read the rules consecutively commencing with number 1 and that as the rules are read amendments may be offered.

Mr. LINDLY (Bond). I suggest to save time that we ask are there any amendments to number 1 instead of re-reading it.

Mr. MICHAELSON (Cook). That is all right.

THE PRESIDENT. That will be understood then to be the procedure. (Motion prevailed).

Mr. SHANAHAN (Cook). There seems to be some confusion as to whether you are referring to articles or rules.

THE PRESIDENT. The Secretary advises the chair that he is calling the rules commencing on page 1 of the printed draft. Rule number 1 commencing "The officers of the Convention." Number 2, "The President shall take the chair," etc.

(Rules 1 to 6 inclusive read without amendment).

Mr. MICHAELSON (Cook). Rule number 6 provides that the President may substitute any delegate to perform the duties of the chair but not for a longer time than one week, except by leave of the Convention. Is that any different from the procedure in different conventions? Does that make the time longer when the chairman can absent himself? I think it should be changed to "one day." I would like information on the question as to whether it is an extension of time over what was held in previous conventions.

THE PRESIDENT. Can any member of the Rules Committee give the delegate from Cook (Michaelson) an answer to the question?

Mr. GALE (Knox). In the Convention of 1870 in this State there was no provision on that proposition. If the delegate will notice, it does not provide for the absence of the chairman for a week, but the chairman may nominate some one to fill his duties for not more than one week. It might be possible that the chairman be sick and to make it one day only, which has been done in some other conventions, would possibly create confusion in that he would have to name delegates from day to day.

Mr. MICHAELSON (Cook). I think a week is too long. I don't care to make it a day, but it would seem to me that the chairman would be put in the position of not being compelled to serve at all. Week after week he could designate some one to act in his behalf for that week and continue that procedure throughout the life of this Convention. I would like to see the President here daily. That was what he was elected President for and that rule is rather elastic. I will make a motion to change that to read "one day" in order to get an expression of the delegates on the question.

THE PRESIDENT. The delegate from Cook (Michaelson) moves to amend rule number 6 by striking out the words "one week" where said words appear in the second line of the printed rule and insert therefor the words "one day."

Mr. HAMILL (Cook). Your Committee on Rules considered this question with some care and was of the opinion that circumstances might arise which would make it important for our President to be absent for more than one day and your committee had supreme confidence in the President of this Convention and relied upon his discretion not to abandon his duties and recommended one week. I am against the amendment.

Mr. WOODWARD (Cook). I believe the President of this Convention received the vote of every delegate when he was elected and among others the vote of the delegate who offers this amendment. I believe in our selection of our President we were prompted by the thought that we were conferring upon him an honor such as is conferred upon few men during their life time and the President expressed himself in very emphatic terms of his high appreciation of that honor. I believe in casting our vote for our President we did so with the feeling that he would show his recognition by devoting his time to the position of President. I should hate to see this Convention at this time start out and adopt an amendment to this section of the rules submitted by our committee, which might indicate a lack of confidence in the fact that the President would perform the duties and carry out the trust we had imposed upon him. (Applause).

THE PRESIDENT. Are there any further remarks?

(Amendment lost).

Whereupon the Secretary read rules 7 to 15, inclusive.

Mr. MICHAL (Cook). I offer the following amendment to rule 15 and move its adoption:

AMENDMENT No. 2.

Amend section 15 by substituting therefor the following: "The Convention shall be in session upon Tuesdays, Wednesdays and Thursdays of each and every week from 10:00 o'clock a. m., to 5:00 o'clock p. m., unless otherwise ordered by a majority of the delegates."

(Amendment lost).

THE PRESIDENT. The Secretary will read rule 16.

Mr. SCANLAN (LaSalle). I think some change should be made in that rule. The first of March is too soon. There should be some time allowed after that time to introduce a proposal.

Mr. DAVIS (Cook). The rules may be suspended on a vote of two-thirds of the delegates present and any delegate who has anything to propose after March 1st can accomplish that by moving a suspension of the rules. I think your objection is taken care of by another rule.

Mr. SCANLAN (LaSalle). If that is the understanding all right.

THE PRESIDENT. Does the delegate make a motion?

Mr. SCANLAN (LaSalle). No, if that is the understanding it is all right.

(Reading rule No. 17).

Mr. LOHMAN (Cook). Will the Secretary read number 17 again?

Mr. LINDLY (Bond). I move that the Convention now take a recess until 2:30 o'clock this afternoon.

(Motion prevailed and the Convention took a recess until 2:30 o'clock p. m. of the same day).

2:30 o'CLOCK P. M.

Convention reconvened.

The President of the Convention in the chair.

THE PRESIDENT. The Secretary will resume the reading of the rules.

THE SECRETARY. Number 17 is under consideration.

Mr. LOHMAN (Cook). Mr. President, I am not quite clear on the wording "and handed to the President; if in proper form the same shall at the next session of the Convention, be read the first time." I would like to know just what the Committee on Rules means by "proper form." Does that pertain to the subject matter of the proposal, or just the heading of that proposal?

In other words, I may be asked to introduce a certain proposal in the Convention. Now, the proposal itself may be of a legislative nature. It may not be fundamental law. But I figure that after the appropriate committee gets through with that proposal, they, in all probability, will report out of that some fundamental law. Now, do the words "proper form" just pertain to the heading of that proposal?

Mr. HAMILL (Cook). Mr. President, if I may, I will undertake an answer to the gentleman's question, on behalf of the Committee on Rules.

The rule is intended to insure that the proposal shall be in the form prescribed by rule 18. The rule also provides that the proposal shall cover only one subject. It does not undertake to cover the question of whether it is legislative or constitutional.

Mr. LOHMAN (Cook). May I suggest then, just a little further on, where the proposal, if not in proper form, is to be referred back to the introducer with an oral statement; it is my opinion that if a written statement accompanied that proposal, the Convention will be in better shape to handle that. I just offer that as a suggestion. If the motion to amend is in order, all right.

Mr. HAMILL (Cook). In reply to the gentleman, it was rather anticipated that in the ordinary conduct of the business of the Convention, if a proposal not in proper form should be submitted to the President, he would have an opportunity to point out to the delegate offering the proposal the amendment he thought was necessary to make it conform, and no statement from the chair would be necessary. It would ordinarily work out in that way. It doesn't seem to me a practical proposition that the chair should be required to make a written statement.

Mr. LOHMAN (Cook). What I had in mind, Mr. President, was this: I may be asked to introduce certain proposals here, by outsiders, some of my constituency. I don't like to go back to them and say that the Chairman of the Convention has told me it is not in proper form. I would like to have the defects outlined in a written statement.

Mr. WOODWARD (Cook). Mr. President, it seems to me that the gentleman from Cook (Lohman) may perhaps be somewhat confused as to the meaning of this rule. If I read it correctly, it is not so much a question of the substance as it is the heading, or the formal manner in which it shall be introduced. I gather from the gentleman's remarks that it is his impression that the proposal having been prepared and handed to him for introduction, and he having nothing to do with the preparation of it, that perhaps it might seem embarrassing, or might embarrass him in some manner, as he says, with his constituency, or those who asked for the introduction of the proposal, if he were obliged to try to explain the defects in the subject matter of the proposal.

It is my understanding that that would not be the subject which the President will consider in determining whether or not the matter should be submitted to the Convention, or the committee to which it should be properly referred.

If I am not correct in my understanding of it, I also would like to have some member of the Committee on Rules explain the matter further, but it is my understanding that the form is practically set forth in the rule itself, and that if the proposal is in the form prescribed by these rules as adopted, that that will be sufficient to permit it being submitted for consideration, and, if not, it would be a matter perhaps that could be very readily and easily explained and made understandable to the introducer so that he could make the correction and put the matter in form so that it might be submitted.

Mr. MICHAL (Cook). Mr. President, my proposition on this would simply be this: All this would be surplusage. Section 18 of this article provides the introductory part of every proposal, and the last paragraph of section 17 specifically provides that such proposal shall be with regard to a single subject matter. The other words are merely surplusage, and could be eliminated.

THE PRESIDENT. Are there any further remarks? If not the Secretry will proceed.

THE SECRETARY. 19, 20——

Mr. JARMAN (Schuyler). Mr. President, I move the adoption of the following amendment to rule 20:

AMENDMENT No. 3.

Insert after the word "rejected," in line 5 of rule 20 the following: "Provided, that no such report shall be made by any committee prior to the first day of March, 1920."

Mr. JARMAN (Schuyler). Mr. President, the first sentence of this rule is the same as rule 32 of the New York Constitutional Convention. It has a peculiar history, and has been somewhat troublesome in Constitutional Conventions. The Constitutional Convention of Massachusetts did not adopt this rule. However, I see no objection to the rule as it is worded here, except as it is to be amended.

You provide in rule 16 that all proposals shall be introduced by March 1st, 1920. That forecloses the introduction of any proposal after that time. Under this rule 20 this committee can report before March 1st, 1920, so that at the time the committee shall make this report it may not have all the proposals that the delegates want to introduce.

This amendment simply provides that this committee shall not report before March 1st, 1920.

Mr. LINDLY (Bond). Mr. President, I would like to ask the gentleman a question. Would your report prohibit the report of any committee in this house before March 1st?

Mr. JARMAN (Schuyler). Only on this subject.

Mr. LINDLY (Bond). On any subject?

Mr. JARMAN (Schuyler). Oh, no. This rule 20 refers to this:

"When a committee has reported that no amendments should be made to the provisions of the existing Constitution relating to any specified subject, and such report is agreed to, all proposals for constitutional amendment relating to that subject which have been referred to that committee shall be considered as rejected."

By that, the committee on any subject can report the 1st day of February under this rule, and thereby foreclose the introduction of any proposals on that subject after February 1st, whereas, under 16, we have a right to introduce proposals up to March 1st, 1920.

Mr. GALE (Knox). Mr. President, it seems to me, when you read that entire rule, that the danger feared by the delegate from Schuyler (Jarman) is not to be feared, because it forecloses only those proposals which have already been referred to the committee. Now, if after the date of that committee report, and prior to March 1st, 1920, other proposals are introduced, they have a right to be referred to that committee, and they are not foreclosed by the report.

Furthermore, Mr. President, it also seems to me that no committee appointed in this Convention is at all likely, in view of these rules, to make any such report prior to March 1st. It doesn't seem to me that any addition to the rules, under the circumstances, is needed to make the situation clear.

THE PRESIDENT. Are there any further remarks? Will the Secretary please read the amendment offered by the delegate from Schuyler (Jarman) for the information of the Convention?

(Amendment read).

(Amendment lost).

THE PRESIDENT. Proceed, Mr. Secretary.

THE SECRETARY. Number 21, 22, 23, 24, 25——

Mr. DUNLAP (Champaign). Mr. President, I desire to offer an amendment to that rule, and move its adoption. I would ask the Secretary to read it.

AMENDMENT No. 4.

Amend section 25 by striking out the word "unfinished" in the last line of said section and inserting between the words "the" and "order" the word "same" and by adding the following at the end of said section: "after the special orders theretofore set for such succeeding day."

Mr. DUNLAP (Champaign). Mr. President, this rule has to do with the matter of special orders.

"Any subject matter having been made the special order for a particular day, and not having been reached on that day, the same shall come up on the order of 'Unfinished Business' the next succeeding session."

Now, the effect of that would be that if a matter was of sufficient importance to be made a special order for a succeeding day, that when that day arrived and you failed to reach that special order, on account of perhaps other special orders preceding it during that day, it should then be relegated to the order, on the next day, of unfinished business, and that order of unfinished business, if you will refer back to the preceding page here, on the order of business, you will find is next to the last order of business that will be considered, and the practical effect of that order is to relegate that special order that was considered of enough importance to make it a special order to a position on the calendar that precludes the probability of your reaching it perhaps in a number of succeeding days.

It would be much better, in my opinion, if any special order that was not reached should be dropped as a special order and retain its place on the calendar as it was prior to the making of that special order, but in suggesting this amendment to the rule it would read that having been made a special order, and not having been reached on that day, the same shall come up on the same order of business the next succeeding session. In other words, if you fail to reach that as a special order on the day it should have been considered, it will come up as a special order the next day.

Now, I submit that as a matter of parlimentary proceeding and reaching these matters in consecutive order as they should be reached, that the proper place would be for it to retain its position on the calendar on the special order of business for the succeeding day, and that is my object in offering this amendment, so that if a matter is a special order the next day, it shall be a special order and remain so until it is reached in the matter of special orders, and for that reason I move that this amendment be adopted.

Mr. JARMAN (Schuyler). Mr. President, as a member of the Committee on Rules, it appears to me that this amendment should be adopted. As shown on page 6, rule 23, the special order of the day is the third order of business. The unfinished business is the second from the last. As the gentleman from Champaign (Dunlap) has stated, if the matter is of sufficient importance to be made a special order, and on account of the day's business you do not reach it that day, then it goes really to the foot of the calendar, and it is in a worse position than if it had not been made a special order at all. It would come up under these rules earlier, because it would come up in its order of reference, and I really think that this amendment ought to be adopted.

Mr. SIX (Pike). Mr. President, it seems to me that rule 24 takes care of that matter, and gives the Convention the opportunity of determining whether that order will be of special importance the second day. That is of some advantage I think. It may have gone through a discussion which solved or cleared its purpose on the first day, and on the second day would not have the importance which the amendment here gives it. I think that number 24 satisfies the demands of the amendment by merely presenting it to the Convention.

Mr. DUNLAP (Champaign). Mr. President, I would like to suggest a little change in that amendment, and that is this: It should come up for the special orders that have been set for the day following. In that way, if there had been orders set for a special day, and perhaps for some special reason it was necessary to consider those special orders set, we will say, as a matter of illustration, for Tueday, and there were other special orders for Wednesday, then in making a change in this rule it ought to be that following the special orders of the next succeeding day, which would be Wednesday, it should come up then on the same order of special orders, and I move the adoption of the amendment.

Mr. LINDLY (Bond). Mr. President, 24 does not touch this question that the Senator from Champaign (Dunlap) is speaking on; I don't think. His amendment is correct, and would place the special order in the proper place on the calendar the next day.

THE PRESIDENT. Are there any further remarks?

(Amendment adopted).

THE PRESIDENT. Proceed, Mr. Secretary.

Mr. GALE (Knox). Mr. President, I rise for information. In view of the suggestions which the gentleman from Champaign (Dunlap) made, the new suggestions which he made, what is the wording of the rule as it now stands? May I ask that the Secretary read that?

THE PRESIDENT. As I understand it, the gentleman from Champaign (Dunlap) is putting it in formal language to be presented to the Secretary.

Proceed, Mr. Secretary.

THE SECRETARY. Number 26, 27——

Mr. JARMAN (Schuyler). Mr. President, I present the following amendment to rule 27:

AMENDMENT No. 5.

Amend section 27 by adding the following: "and every delegate within the bar of the Convention when a question is stated from the chair shall vote thereon, unless he be excused by the Convention."

(Amendment lost).

THE PRESIDENT. Proceed, Mr. Secretary.

THE SECRETARY. Number 28, 29, 30, 31, 32, 33——

Mr. JARMAN (Schuyler). Mr. President, I move the adoption of the following amendment to rule 33.:

AMENDMENT No. 6.

Amend section 33 as follows: Strike out all after the figure 33, and insert the following: "A request to be excused from voting, or an explanation of a vote by any delegate shall be a question of privilege; and any member requesting to be excused from voting, or desiring to explain his vote, may make, when his name is called, a brief statement of his reasons for making such request, or an explanation of his vote, not exceeding three minutes in time, and the Convention, without debate, shall decide if it will grant such request to be excused from voting; but nothing in this rule contained shall abridge the right of any member to record his vote on any question previous to the announcement of the result."

THE PRESIDENT. Are there any remarks on the amendment offered by the delegate from Schuyler, Mr. Jarman?

Mr. JARMAN (Schuyler). Mr. President, under the rule as reported, explanations shall be made before the vote is taken, whereas, this amendment permits a delegate to make his explanation when his name is called.

THE PRESIDENT. Are there any further remarks?

Mr. HAMILL (Cook). Mr. President, the amendment now before the Convention seems to be predicated upon the amendment which was last offered, which was rejected. Under the rules as they are now framed, no delegate can be required to vote nor offer any excuse for not voting. The proposed amendment seems to contemplate excusing one from voting. That is not required. It seems to me, therefore, not pertinent.

(Amendment lost).

THE PRESIDENT. The Secretary will proceed, please.

THE SECRETARY. Number 33——

Mr. DAVIS (Cook). Mr. President, a point of information. Will some member state the reason for this rule?

THE PRESIDENT. Can some member of the committee give the delegate from Cook (Davis) the information asked, the reason for rule 33?

Mr. DAVIS (Cook). If there isn't any reason, I ask that we strike out the rule.

Mr. JARMAN (Schuyler). I am somewhat surprised at an ex-member of the General Assembly asking that question.

Mr. DAVIS (Cook). That is the reason I asked. (Laughter).

Mr. JARMAN (Schuyler). The reason for that is this: That in the deliberations it has been the case that members will get up on roll call and explain their votes. That is done every day on roll calls in the House of Representatives in this State, and this is in order to obviate that, in view of the fact that the time limit was taken out in rule 29, where all the members had an opportunity to talk as long as they wanted to on roll call, which sometimes consumes a great deal of time. If you do want to explain your vote, you can do it. It doesn't prevent you from giving an explanation, but it does prevent you from interrupting the roll call.

Mr. DUNLAP (Champaign). Mr. President, I would like to ask the gentleman a question.

Under one of the rules—I don't recall the number now—discussion of a question more than once is precluded. Now, if I understand this rule, after the discussion has proceeded, and before the question is put, if any member desires to explain his vote, he will have an opportunity to do so. Am I correct about that, Mr. Jarman?

Mr. JARMAN (Schuyler). Mr. President, you could do that under rule 29, with leave of the Convention. The second line, rule 29—shall not speak more than once on the same question without leave of the Convention.

Mr. DUNLAP (Champaign). Suppose I wish to explain my vote after a discussion has taken place, after I have spoken previously. Am I entitled, under rule 33, to make that explanation? That is the question I am asking.

Mr. JARMAN (Schuyler). By leave of the Convention, yes.

Mr. DUNLAP (Champaign). I take it that under this rule you would have a right to do it anyway.

THE PRESIDENT. The Secretary will proceed.

THE SECRETARY. Number 34——

Mr. DUNLAP (Champaign). Mr. President, I understand that 34 has been called, and if so I desire to offer an amendment, please.

Amend section 34 by striking out the word "agriculture" in line 12 and by creating an additional committee to be known as the Committee on Agriculture consisting of 15 members.

Mr. REVELL (Cook). Mr. President, may I ask that when amendments are offered the Secretary be requested to read the rule as presented by the Committee on Rules first? In that way we will get the proper place for the amendment.

THE PRESIDENT. The Secretary will kindly read rule 34 as presented by the committee.

Mr. SUTHERLAND (Cook). Mr. President, may I ask that in taking up rule 34 the Secretary be asked to read each committee, so that we may take up the committees in order if any change is desired?

(Rule 34 read).

THE SECRETARY. Mr. President, I have an amendment offered by Mr. Dunlap.

(Amendment read).

THE PRESIDENT. Are there any remarks on the amendment offered by the delegate from Champaign (Dunlap)?

Mr. DUNLAP (Champaign). Mr. President, I am offering this amendment in the interest of one of the greatest parts of our government in this State, one that concerns every citizen of the State.

I was not sure that the Committee on Rules would report a Committee on Agriculture, but they have seen fit to combine that interest with two others, and made a combination committee of Industrial Affairs, Agriculture and Labor.

Now, I submit that if we are to have a Committee on Agriculture that that interest is big enough in this great State of Illinois, that is the third State in this Union, and with Agricultural interests greater than any other State in this Union, if we are going to recognize an interest at all, let us do it in such a manner that it is a real recognition.

I don't know that agriculture, as such, has any particular thing to ask of this Convention, but I do know that agriculture, as such, is interested in almost every proposition that will come before this Convention, and if we have a Committee on Agriculture, these questions of great interest to agriculture in this State can be discussed in this Committee on Agriculture, and when a determination is reached there their recommendation can be reported to the Convention and referred to the proper committee having charge of the particular section that will be affected by their conclusions.

Now, I am told that it is desirable to have the Committee on Agriculture combined with the Committee on Labor and Industrial Affairs, so that agriculture may act as a buffer in this matter of things that may come up before this Convention. Now, I submit that if we are going to meet these propositions as men, as delegates to this Convention, that we ought to meet them face to face, and whatever there is to be done with regard to any particular question, let us meet it as delegates of this Convention, but don't let us undertake to shoulder off onto the great interest of agriculture in this State questions that do not concern it, for the purpose of checkmating issues of certain other interests.

I know that agriculture does not desire to be combined with these other interests upon this committee—and I speak advisedly upon that particular—and I don't believe that the other interests care to have agriculture.

Agriculture is not going to come before this Convention and ask that a special limitation of hours of labor on the farm be reduced from sixteen hours to fourteen hours. They are not going to ask that, but there are questions that will come properly before an agricultural committee of vital interest to them along other lines that they would be glad to have a committee to present them to without having it confused among the divers and diversified interests of which this Convention is made up and of which a Constitution consists.

Now, in asking this of you, I am asking nothing more, I think, than you gentlemen ought to willingly accord. If we are going to take up these questions that concern labor, let us face those questions as delegates of a Constitutional Convention.

I would a good deal rather you would leave out agriculture as a committee than to combine it as you are combining it here. I think if it goes out over this State that we are not making a separate interest of agriculture in our committee assignments here that it would meet with very great disfavor throughout the State.

Nearly all you gentlemen outside of Chicago represent the agricultural interest. You know that agriculture in your district is one of the vital things of the district. It is a matter in which every citizen of the State of Illinois is interested, and agriculture can bring nothing to this Convention, I think, that would be of any special service to agriculture, as agriculture, except that it be such as will affect the interests of every citizen of this State. Therefore, I say that in asking for this special Committee on Agriculture, you are doing yourselves and the cause of agriculture an honor if you make a separate committee of this, and not tie it up like you would tie a couple of Kilkenney cats together by the tails and throw them over the clothes line and then have them fight it out, and then at the end of the chain you have nothing.

I think I know what you are up against in this committee if you retain this combination, and I hope that here in the beginning of this Convention you will at least recognize that agriculture has an interest of its own; that the people of this State are interested in the soil of this State as a productive matter. It furnishes the food and the livings of all the citizens of this State. Therefore, if agriculture is entitled to a committee at all, let us have an Agricultural Committee. (Applause).

Mr. FIFER (McLean). Mr. President, the proposition here is, as I understand it, to combine the interests of labor and agriculture and submit their rights to the same committee. It seems to me that this would be a mistake.

The interests of the laboring man, of labor, as we call it in common parlance, and agriculture, differ not only in interests, but they differ also in technical language. The farmer, the agriculturist, is interested in high prices, if he is interested at all, whereas the laboring man is interested in low prices. If the agriculturist is interested in wages at all, he is interested in lowering them, whilst the laboring man is interested in raising them. I speak of the laboring man and of the labor interests as they are spoken of in the public press and in common parlance. These men who work in coal mines, in factories, and who run these railroad trains over the iron rails up and down through Springfield, these are the laboring men, and it is no secret that they will be here knocking at the door of this Convention.

I have seen it stated that no less than a hundred thousand lives are sacrificed annually in the industries of this country through accidents. It would not be strange if these men would be coming here to ask some relief from this human slaughter; and they will be here, and we ought to accord them a forum, a committee before which they could be heard and heard intelligently. Now, they know nothing about agriculture. They know but little about stock raising. In fact, many of them scarcely know on which end of the cow the horns lie, and it is proposed to send them to make their complaints before a committee of farmers. I think that is wrong. As to the technical knowledge of the farmer, he knows nothing about the needs or the demands of labor. He is a farmer. He is pursuing other vocations; and it would be idle indeed to send these laboring men before a committee of farmers, or a delegation of farmers, to talk to a committee composed of men who have technical knowledge about the needs and the demands of labor.

Now, it does seem to me that this Convention ought to have a distinctively agricultural committee. Illinois is the greatest agricultural State in the American Union. It is the broadest and richest agricultural expanse beneath the sun, and many men throughout this State of ours will think it strange indeed if this Convention does not afford them an opportunity to be heard by a committee who would understand their language, their thoughts and their needs.

Thirty-five years ago there was not a farmers' organization in this State of ours except the Grangers, and that was political. There was no organization looking to the advancement and the interests of farming. Now there is scarcely a county in Illinois that has not one or more agricultural organizations looking to the improved and the better methods of farming.

It may be said that this Convention can afford either the labor rights or the agricultural rights no relief. It is too soon, altogether too soon, to shut the door in their faces and say, "You must seek your remedy before the legislative assembly of the State." We must give them a respectful, a patient and an intelligent hearing, and if we can afford any relief properly, we should do so.

Now, I want to congratulate this Committee on Rules for the splendid manner in which they have discharged their duty. It seems to me that it is remarkable, in the time that they had to formulate these rules, that they should present a set of rules to which there were so few objections, and I think the committee deserves the thanks of every member of this Convention for the efficient manner in which they have discharged that duty, and I hope that my friend to the right, from East St. Louis, when I take my seat, will rise in his place and agree to a separation of these two interests that it is proposed to send to one committee. I believe that it will create a better feeling throughout the State, and I believe that these two interests can be better heard and that they will feel better satisfied.

Now, supposedly, whoever makes the appointment of the men who are to compose an agricultural committee will take men who are members of the Convention who are men suited to discharge that duty, and when it comes to appointing a labor committee he will take the members who are most conversant with the rights and interests of labor, and when you get the two together and submit the two interests, you will find a procedure forever and ever adequate. I hope that this will come from the committee

itself. I believe it should be done, or I should have kept my seat and not said a word. (Applause).

THE PRESIDENT. Are there any further remarks?

Mr. GREEN. (Champaign). Mr. President, it is with exceeding embarrassment that the committee be placed in the attitude, perhaps, of disputing any of the suggestions that are made about the relations between the subjects of agriculture and labor, but I believe that it is just that the Convention understand the motives and the purposes which actuated the committee and which finally culminated in its judgment in forming the title of this committee as it appears in the tentative draft of rules.

I was particularly struck by the very frank statement of the delegate from McLean (Fifer) that the two interests which are represented or designated specifically in this title have opposite interests and views; that those who would press upon this Convention some proposal in the interest of labor are interested in low prices, and that those who would present proposals dealing with agriculture are interested in high prices; and he will agree with me, no doubt, that this is but one of a great multitude of propositions upon which these two great forces are not in accord.

If the Convention will study for a moment the character of titles to the subjects presented, it will discover that there has been no particular industry, no particular business and no particular class mentioned except these two. And it is meet, I believe, that the Convention know that the committee considered long and deliberately the various suggestions about how these questions be met in title. The committee was requested to provide for a Committee on Agriculture. The committee was requested to provide for a Committee on Labor. The committee itself believed that there should be a Committee on Industrial Relations.

I voice everything that my very distinguished colleague has said about the paramount importance of the industry of agriculture in this great State, and join with him in practicing what I preach by trying to direct my own investments in that direction.

This is a Constitutional Convention. This is not a legislature. The high purpose and object of this Convention is to so frame a basic law that no class and no majority shall ever transgress the rights of any minority or any individual under our Constitution.

There has been a growing tendency in this country and in this State for the contending forces of production and consumption to pull apart. It is a mistake of policy, and the sooner we recover the better it will be for the commonwealth.

There ought to be no objection to the great producing population of this State sitting down in conference with the great consuming population of this State, and each helping the other to understand that both are essential, and that laws ought not to be framed in the interest of either to the prejudice or disadvantage of the other.

The great purpose of Constitutions is to build an economic structure for the State. It can never be builded upon laws or Constitutions designed to do things affirmatively for any class, and therefore the committee, as it resolved all of these fundamental truths in its discussion, came to the conclusion that there should not at the end of this Convention be opportunity to say that any economic interest in the State was precluded from the very first from participating in committee discussion with the desires or demands of any other interest in this State; and perchance if there comes from a Committee on Labor some proposal with the recommendation that it be written into the Constitution, the very fact that the interests of those who framed and presented that proposal are in conflict with the great producing population would make it extremely unfortunate if it found place in the basic law.

On the other hand, if there should affirmatively come before this Convention affirmative acts in behalf of the great producing classes which might be construed to the disadvantage or injury of labor, we would then have, in the campaign for the adoptioin of what we do, to face the proposition that there had been a recognition of these classes.

Agriculture was designated in the title in this committee because of the conviction of every member of the committee that the subject was of so much greater importance than any other single business, whether it be railroad or warehouses or manufacturing, of any of the other avenues of industry, that it deserved a mention in committee, and labor was mentioned for the same reason. The fact that the interests of the one fostered by its friends might operate to the disadvantage of the other is not the excuse, but the reason, which the committee urges to the Convention for having adopted the title as it is.

I take it that there is no delegate who would say that this Convention ought to pass proposals for its basic law designed to affirmatively do something for the farmer which would hurt the consumer, nor vice versa, and if that be true, isn't it more likely that there will be less discussion and controversy on the floor, if, as a part of the great economic system of the State, under the inclusive title of domestic relations, the two greatest interests be grouped, to the end that there shall be an exchange of ideas, so that nothing will come from any committee in favor of the one to the prejudice of the other?

Now, it has been said that there isn't any necessity for a Committee on Agriculture. As one representative of a peculiarly representative section, I feel that way. The same thing perhaps has not been said about a Committee on Labor, but, after all, remember that we are met to frame a basic law which knows no particular interest, knows no class of population, but which has to recognize the rights of all the people to prevent any injury to any class or any minority. Does it not seem that the most happy solution is that in the inception the Convention go on record as determined not to inject any class distinctions in the title of its committees?

These are my personal views. They are the views which were discussed in committee, and they in no sense are intended to dispute a single fact which is urged by either of the very distinguished delegates who fear the consequences of this grouping. (Applause).

THE PRESIDENT: Are there any further remarks?

Mr. KERRICK (McLean). Mr. President, I promise the gentlemen of the Convention my remarks will be very brief.

At first the proposition presented by the gentleman from Champaign (Green) struck me with considerable force. It is to the effect that the proper composition of a committee here consists of opposing interests, because of the benefit to be derived by those whose opinions are divergent, and diametrically so, on questions rising up between themselves, and assuming that the result of such a condition would tend to a harmonizing of opinions.

Now, that struck me as a somewhat logical argument, but I can see a difficulty arising out of that, well illustrated by the suggestion, which I hardly think anyone will make, that because of the questions involved, the Committee on Legislation provided for in this case could be combined with the Committee on Initiative and Referendum, because those two committees, in their object and desires, are at the opposite poles.

We could not procure the best results with so outstanding and so visible a difference of opinion as to the very fundamental principles of our government as combined in these committees, and having this in mind, it seems to me that the argument presented by the gentleman from Champaign (Green) is not entirely apropos with reference to the committee as it now stands on Labor, Industrial Affairs and Agriculture.

In my opinion much better work could be done by a separation of that committee than an attempt to harmonize that which perhaps is impossible to harmonize by the dissensions and contentions of a committee composed of such inharmonious elements as would be properly enough placed before this committee.

For my part, I see no sufficient reason for allowing this committee to remain as it is in its present form, and I heartily coincide with what my colleague has said in the way of compliment of the extraordinarily efficient

work, and the degree of wisdom manifested by this Committee on Rules in what they have presented for our consideration.

Mr. MILLER (Cook). Mr. President, just a word that I would like to say upon this subject. I was very much impressed by the remarks of the gentleman from McLean (Fifer), and the reason was that from my own experience they seem to me to be the best reasons in the world in favor of the rule as reported by the committee.

It is true that Illinois is a very great agricultural State. It is a very great railroad State as well. It is a very great banking State. It is a very great oil producing State. It is a State which houses vast numbers of laborers.

If agriculture were to have a special committee, is it not true that each one of these other great special interests would be equally entitled to a committee of its own before whom it could have a hearing, and whose committee would be equally sympathetic with it as the agricultural committee perhaps would be with agriculture?

Now, if we are to have these various committees, and their interests are conflicting, why, is it not inevitable that one of those committees, with its eye particularly upon the interests of that particular committee, will report conclusions which will be in conflict with one of the other interests?

I cannot see any answer but that, and if that does result, then who has the duty of harmonizing those interests and reaching a just result? Manifestly no one but the Convention, or the Committee of the Whole. The work has got to be done somewhere.

My experience—and I have had many years of rather intimate experience in the relations between employers and employees—has been that when these two parties, ordinarily supposed to have diverse interests, get together and talk things over, the chances are very good of their harmonizing their opinions and reaching a result which is just to both. That is my conclusion based on many years of experience. Now, why doesn't that same principle apply here?

If we get every interest in the State in one committee, composed of broad minded men who have the interests of the whole at heart, why won't they become educated to the views and interests of all? And if that is so, we are likely, it seems to me, to arrive at a more just result from the committee, which will leave the Convention or the Committee of the Whole a vastly less amount of work to do, and they will take the matter up without having all these conflicting interests and perhaps some hard feeling resulting from the various committee reports.

THE PRESIDENT. Are there any further remarks?

Mr. LINDLY (Bond). Mr. President, I listened with much interest to the remarks of the gentleman from Cook (Miller), and I cannot see how he is going to avoid the very thing that he is speaking of, of the two interests bringing in reports that are favorable to the two interests.

If we have a committee on agriculture and labor together, and they are composed of men who are interested in both these things, they will bring in a majority and a minority report, and everybody on this floor knows they will, and we would have the same discussion that the gentleman from Cook (Miller) apprehends would result by the separation of the two committees.

Now, if that would be the case, and everybody here knows it would be the case, that if half the committee were laborers and half the men were interested in agriculture, and they could not agree, that they would bring in the majority and minority report, why not separate these two interests and let them discuss what is to the best interests of each, and let them present that to this body just the same as any other interests will be discussed by the parties and presented here? Why not let them bring in the results of their best judgment from each one of the committees, and if it is necessary to thresh it out in the Committee of the Whole, thresh it out just the same as we do any other questions? Why put these two together as bumpers and bump it out in a committee and make majority and minority reports. Why not let the labor interests of the State have the

satisfaction of having a committee and presenting their matters to a Committee of the Whole or on the floor, and those interested in agriculture have an opportunity to present their interests to a committee on agriculture and make whatever suggestions that committee may have? I believe the best results will be obtained in that way, and it will be better when you submit this Constitution to the people for them to believe that both interests had a committee of their own discuss it and present their conclusions to the body.

Mr. DIETZ (Rock Island). Mr. President, and gentlemen of the Convention: This is a Constitutional Convention and not a legislature. Our purpose will be to generally define the fundamental rights of man and to broadly outline the machinery of government.

There is not another committee, in the whole list of committees, except the one now under discussion that has anything to do with any particular trade, occupation, class or group of men or citizens, and I don't think we ought to have any such committee at all.

As I understand it, the Committee on Rules and Procedure has been induced to incorporate such a committee into its scheme of organization simply because of the pressure upon them of certain groups and certain classes.

As the gentleman from Cook (Miller), the last delegate, said, why might not each of these groups and classes have a separate committee and a separate demand through such committee upon this Convention?

That has nothing to do with the history of government; it has nothing to do with the fundamental rights of man, and, therefore, in my judgment, it has nothing to do with the work of this Convention. If they must have, as they have demanded, a place to go to present their demands, why should not those who want urge special claims for agricultural—I have the same desire of being favorable to the great agricultural interests of this State as any delegate here—if you want special committees and special hearings for each particular group and class of citizens, and then have all of those committees presumably favorable to that particular group and class of citizens, we have a complexity of reports and a series of demands upon this Convention, none of which can be granted, but if we must have, if we are bound to have, such claims and demands from these particular groups, let us put them all under one head, and let each committee try to harmonize their demands into some concrete, unfiorm report of such committee. And we can then have, gentlemen of the Convention, a minority and majority report, I think you will find that to be true, probably; and for the same reason I am of the opinion that the Legislative Committee and the committee on the initiative, referendum and recall, should be held together to work out those problems between themselves.

If these interests are adverse to one another, I don't think they should be, it is not our business to allow them to be, because we have to sit in judgment upon them. My judgment is that we ought to keep these committees together as constituted in the report.

Mr. ELTING (McDonough). Mr President, I am in favor of this amendment, on account of the great interests involved in the three subjects represented in this committee. We have the industrial and labor, who are producers and consumers. We have the agriculture, which is the great producing class of our great State, and the agriculture has its varied interest which permeates almost every interest that will be before this Convention.

It is useless for me to state the magnitude of agriculture. Here we are situated in the midst of the great corn and pork producing country of the world. Within the confines of this State and extending east to Western Ohio and west to Eastern Nebraska we have to produce the surplus corn and pork for the world.

The industrial and labor classes that are combined with the agriculture in this committee are producers and consumers. The agriculture is a great producing class, and I don't see any reason why we should link these great

industries together in one committee. The men of national reputation have not been able to settle these great problems. Do we want to ask a committee to settle these conflicting interests and unify them and bring them to the Committee of the Whole? I say it is for these committees to recommend, and it is for the house as a Committee of the Whole to unify these different interests.

Mr. President, I favor this amendment.

THE PRESIDENT. Are there any further remarks?

Mr. TODD (Peoria). Mr. President, I am a friend of labor. I know what the word labor means. I am also from one of the best agricultural districts in the State of Illinois. When I get home I am upon a farm. I am operating that farm. I believe the delegates of this Convention would make a very grave mistake if they should make this committee up by combining it the way it is.

Now, agriculture is not coming before this Convention to ask for things that are unfavorable for labor. They will not come here and ask you for anything that is not favorable to any class, but they are going to come here, and if they ask you for anything, they will ask for what is the welfare of this State, and I would be negligent in my duty here if I did not at this time briefly state to you what my contention is.

Gentlemen, I think it is due to the agricultural interests of this State to separate these two great interests. True, in one sense of the word these interests are different; in the other sense of the word they are the same, but, gentlemen, in Peoria today there are some thousands of thousands that are engaged in farming, and their eyes are upon this Convention, and it does seem to me that you can give to the agricultural districts at least recognition in this great body of men. If you cannot do that, if you are going to have too many committees, then I want to go upon record as asking this Convention to strike from that article the word "agriculture," and we will take our chances in getting before the Convention if it is necessary. They don't work together, and I believe it would be a grave mistake to try to keep them together. I believe it would be more harmonious to all concerned if we could separate the two, and I believe that anyone who is really from an agricultural district knows that everybody who is interested is watching to see whether you are going to recognize them or not.

THE PRESIDENT. Are there any further remarks?

Mr. SHAW (Cass). Mr. President, I am rather young in years but aged in experience. I have had considerable farm experience. I have had experience in trying to unite union labor and farm labor. The problems are vastly different, and it cannot be done.

Concurring with the gentleman who just spoke, I would prefer that that word "agriculture" be stricken from this committee, and we will take our chances, rather than have it combined with industrial problems and labor. There are going to be a great many problems before this Convention with reference to labor and some with reference to agriculture, and I would very much prefer to separate the committee. I believe in putting all the cards on the table right now and fighting these issues as they come up, and it is for the Convention as a whole to decide our problems instead of having the committee decide them. As I understand it, the committees are to make a study of the different problems and make their recommendations. I don't think there is any possibility of harmonizing union labor with the farmers, and I think a committee as is proposed here will not meet with favor among the farmers. I don't think the farmers will care to act as a buffer in this Convention, and I think another thing to look to is the ratification or adoption of this Constitution after the thing is over with. It seems to me right here on this floor is the place to fight these problems out, and we can best do it by having separate committees.

THE PRESIDENT. Are there any further remarks?

Mr. SIX (Pike). Mr. President, I wish for one moment to call attention to the importance of agriculture as distinguished from banking and the other lines of industry which have been mentioned. Agriculture, including real estate and railroads, bears about eighty per cent of the expenses of the

State by taxation. That is the thing that appeals to me as being of importance as compared with the other industries.

Agriculture is not going to come here and ask for favors, but it is going to ask that its problems be referred to a committee, which will be a sort of a clearing house by which they may be directed to proper committees. It occurs to me that for that purpose alone a Committee on Agriculture would be a good thing. Further than that, diplomacy requires that such a committee be appointed. Prejudice is a big thing to work against, and, as all delegates here know, agriculture cannot feel that it has been fairly treated if it is not recognized by a committee of such members as has been recommended. I desire to list myself as in support of the amendment.

Mr. MICHAELSON (Cook). Mr. President, I just want to say this: The world has gone through a period of terrific destruction. There is great unrest, not only throughout the State of Illinois, but throughout the United States. Something must be done to stimulate production, industrial as well as agricultural, to offset the destruction that has been going on for these many years. In order to do that it will be necessary that you foster a free discussion along these lines in this Convention. Let us take cognizance of these conditions in dealing with those questions. If it can best be done in two committees—one for the agricultural interests and the other for the industrial and labor interests, it seems to me that that is the economical way to handle the proposition. There will be great demands on this Convention from all interests, and I believe, after hearing the discussion, and after listening carefully to all the remarks made on both sides, that the thing to do is to adopt this amendment.

Mr. RINAKER (Macoupin). Mr. President, I am not here authorized to speak for any agricultural society or for the farming interest by any express authorization. I am not a farmer, but I claim to be an agriculturist. There is quite a distinction between the two, but the more I hear of this discussion, the more I feel that the proposition of the committee is the wisest plan that could be adopted, and I heartily indorse what has been said by the chairman of the committee in stating the views of the Committee on Rules.

The object of committees, as I understand it, is to help to facilitate the disposition of the questions that are to come before this Convention. They are to be buffers, using the expression that has been used here, between this Convention and all interests claiming special advantages by reason of the Constitution that is to be adopted.

We cannot, in a large body like this, have the hearings that can be heard before a committee. Now, if there is a diversity of opinion, assuming that this is correct, and it must be so, assume that the parties meet face to face, discuss their differences and reach or approximate an agreement, and then report, whether by agreement or whether by a majority or minority report. One of our later rules following this one provides that a majority report may be accompanied by reasons in support of the report and that the minority may present their reasons for their minority report, and by permission of the Convention they may be printed so that you have that benefit of them. Now then, if it suits better the pleasure of these two interests that are specially named in the committee—agriculture and labor—to strike out both words and use only the first expression, "Committee on Industrial Affairs," I think you would cover the subject equally well. If that is desired, I would not have any objection to striking out both of them.

It seems to me that the wise thing is not to separate those interests into two conflicting bodies, each of which is to come before us advocating its particular interest, and then have a free for all fight on the floor to determine which of the two we will adopt. It does not seem to me that that is the part of wisdom. I believe that we should let all such questions be referred to the same committee, and let them have all the hearings that any interest can want.

The object of this rule evidently is not to keep any interest from being fully heard, but to give it every opportunity to be heard.

Mr. FIFER (McLean). Mr. President, may I ask the gentleman a question? If you would look over the list and find out the most diverse interests that are to come before the consideration of the Convention, and send them to the same committee, I take it that is your position.

Mr. RINAKER (Macoupin). Yes, sir.

Mr. FIFER (McLean). Why not carry that a step farther then and go through the entire list and pick out the most diverse interests, and send them to the same committee, and do away with one-half of these committees?

Mr. RINAKER (Macoupin). It could very probably be done, and if the gentleman will look over the list, as was suggested by some other gentleman here, this particular committee covers, by its designation, all of what would be conflicting interests of that character of the producing and consuming class. They are all embodied in the designation of this committee, and that is why I think, without regard to what might be done as to other matters, that it is extremely proper that all these subjects be sent to one committee, so that it can hear both sides and report and have the final determination where each of us must take his full responsibility.

I am in favor of the report of the committee, and I am opposed to the amendment.

Mr. REVELL (Cook). Mr. President, if the gentleman who has just taken his seat will put his ideas as a motion, I will be very glad indeed to second it.

I feel that neither of these interests has a place in this Convention or anything to do with the preparation of a basic law, which is all we have to look foward to. Just as well may we bring all of the business and manufacturing interests together and claim that they are entitled to representation on these committees. Very many other interests—the railroads and others—all will come, if they come at all, under the head that was suggested by the gentleman who has just taken his seat, of industrial relations, and in that way, as he so well said, all these various interests may come before this committee, which can thresh them out, and in the final result we will have them before this Convention to settle and to discuss in the place where they should come.

I will be very glad indeed, if the gentleman will move as an amendment his suggestion, to second that motion.

Mr. RINAKER (Macoupin). Mr. President, in accordance with the suggestion just made, and the like suggestion that has been made by several on the floor, I would like to move as a substitute for the pending amendment that the words "Industrial Affairs, Agriculture and Labor" be stricken out, and in lieu thereof there be inserted the words "Economic Relations." I think that would cover everything, and that it fully meets everything that could be covered by the words now used. I move that as a substitute.

THE PRESIDENT. The delegate from Macoupin (Rinaker) moves as a substitute to the amendment offered by the delegate from Champaign (Dunlap) that the words "Industrial Affairs, Agriculture and Labor," in rule 34, be stricken out, and that in place thereof the words "Economic Relations" be inserted. Are there any remarks?

Mr. DUNLAP (Champaign). Mr. President, this discussion has certainly taken a remarkable range. The idea, that industrial affairs and agriculture and labor are so antagonistic that they should be incorporated into one committee, so that they can have their trouble there and rid the Convention of any further trouble, is a queer proposition, to say the least.

Now, theoretically, some of the remarks here are all right. Practically, there is something the matter with them. We have got to get down to this proposition that agriculture, as such, is not antagonistic to any other interest in this State. If they have any proposition to make to this Convention, it will be a proposition that will be in the interests of the whole State, or else it won't be made at all, in my opinion. Agriculture is not coming here with any specific demand upon this Convention, but, as I suggested in my first remarks, if you are going to recognize the great interest of agriculture—and it was recognized by the Rules Committee in this half-hearted manner—why, you should do it in a way that would be

a real recognition, and a Committee on Agriculture would not be, in my opinion, an undesirable thing, because it would enable all those who are interested in the questions that affect agriculture that come before this Convention to have their hearings in this agriculture committee, and not have to go through this entire list of committees in order to have a hearing. They would not be able to get together upon any concrete propositions that affect them, unless they watched and looked over every committee that is designated on this list, because their interests are diverse. They are not coming here to ask for any short hours of labor or anything of that kind, but the principles that you put into this Constitution or leave out of it that affect agriculture are of great importance to the people of this State as affecting agriculture, not because some farmer wants any special legislation along any special line.

Now, by combining these committees into one you are not doing away with the question that will have to be settled by this Convention ultimately on the merits of certain propositions, but you are injecting into it there agriculture as agriculture in order that it may combat labor as labor. Now, that should not be. If we have a Committee on Agriculture, it should consist of the best members of this Convention, and I don't care from what walk of life they come. They will all be interested in agriculture. If we have a committee on labor, the same rule ought to obtain.

Now, you say to labor, "We are going to put you up with agriculture, which we feel is antagonistic to your interests." You say to agriculture, "We are going to put you in a committee with labor, so that if you get anything whatsoever, you are going to get it in the spirit of compromise." What sort of a proposition is this? Some gentleman has remarked that this is not a legislature. This is not a legislature. This is a Constitutional Convention, that should get at the basic facts and place them in a Constitution and submit it to the people in such a way that the things that are embodied in that Constitution will cover all the questions in which the citizens of Illinois are interested.

If you are going to commend this Constitution, when it is once made, to the agricultural interests of this State, you will add very greatly to it if you give agriculture a fair hearing in this Convention, and not undertake to say to them that they have got to get into some committee that is possibly antagonistic to them in some respects, or that they must seek around in the different committees to find the things in which they are interested and bring the matters before these several committees.

I suggest, if you want to recognize agriculture—and you started out with that proposition—give us a separate committee. If you cannot give us a separate committee, why, then the proposition that we have no committee would be desirable, but I think, if I might raise the question of a point of order, the gentleman's motion is not in order at this time, because he has spoken to this question, and he had his day in court and did not make the motion, and under the rules, while we have not formally adopted them yet, the spirit is there, and he could not offer this as a substitute to this pending motion.

THE PRESIDENT. Are there any further remarks?

Mr. MICHAL (Cook). Mr. President, I think you will find in the majority of instances, as I have gathered from my little bit of experience from the short time I have been on this earth, that the interests of labor and agriculture in many respects are diametrically opposed. I need but to refer you to the recent discussions with reference to the passage of the daylight savings plan. That showed that labor was in favor of the daylight savings law and the agriculturist was against it.

I realize that the farmer of Ilinois, as well as anyone in this government is entitled to all that he can get in order to successfully carry on his undertakings and his business. I think he takes a tremendous risk. I think in proportion to that risk he is entitled to the very best he can get from any legislative or deliberative body such as this is. I am in favor of the farmer for anything that he wants within reason that is not incompatible with the rights of his fellow men, and I think that the establish-

ment or creation of a separate committee on agriculture is the wisest thing for this Convention to adopt.

Let me call your attention, gentlemen, that we are looking to have this Constitution adopted by the votes of the people. We have got to get the man from the city to be in favor of it; we have got to get the man from the rural districts to be in favor of it; we have got to go on the policy of give and take. In using this term I don't use the eloquence that was indulged in by the gentleman at my right when he said you have to use diplomacy, but I am for diplomacy in order to effectively carry out the work for which we are here assembled.

Mr. STEWART (Edgar). Mr. President, and gentlemen of the Convention: I am a farmer by practice, and not by proxy. I certainly concur in the remarks of Senator Dunlap and Ex-Governor Fifer. I believe there is no one industry in the State of Illinois that directly and indirectly interests more men in this Convention and in the State at large than does agriculture.

The rural districts, as well as the cities, as the gentleman has said, have got to ratify this Constitution after it is made. We have got otherwise to compromise, possibly, with the one large industry in this State, not knowing at this time that they ask for anything. Probably they will not, but they should be entitled in this Convention to a committee. Rather than to not do that, I would rather it would be stricken off as it now reads in the rules of this committee. Therefore, if I were offering a motion to this Convention, I certainly would offer the motion that a committee be appointed by this chair as a committee on agriculture, consisting of not less than nine members, and knowing that we are largely agriculturists, it is agricultural votes that we need to meet a proposition in this Convention.

The agricultural people will ask me, when I go back, "Why didn't we have a committee in this State on agriculture, the biggest industry in the State, the industry that vitally affects every other industry in the State?" Therefore I think that we should have a committee on agriculture. I thank you.

Mr. GEE (Lawrence). Mr. President, and gentlemen of the Convention: I read these rules, and I could not understand why this clause "Industrial Affairs" is injected into this at all. I don't understand that this Convention has met for the purpose of evolving a plan outside of making a fundamental basis of legislative action. As well, in my mind, might we take in every profession and vocation, and even the barber shops have a committee, but if we are to have this committee, I am opposed to putting the farmer between the millstones. It is industrial affairs, whatever that may mean, and agriculture being ground between industrial affairs and labor.

I ask you, gentlemen, what committee has the conflicting interests? You will all admit the conflict is between industries of some kind and labor. What chance would the farmer have in the committee with that conflicting interest? He does not come here with any conflict. He is not in conflict with himself nor with the people at large. If he had a conflict, gentlemen, he would be in dire straights indeed. He is the only one that never strikes. He is the only man that never shortens his hours. He is the only one, of all men, that will bring back to the reconstruction times speedy production, and if we are to listen in committees to those from the different vocations of life, I want him separated. We are holding for a square deal. I know how dependent we all are upon him, and I know how unpassionate and untiring he is in his pursuit of life. It is said he did not like the daylight law. He did not like it because he could not speed up production enough. Now, you put him in a committee to make his wants known, and we all want to do what we can, and we find on one side labor demanding shorter hours, something inimical to his pursuit of life. I am against camouflage, gentlemen. I don't know, and I will never learn, I don't believe, what "economic relations" will ever mean, and particularly to the farmer, but I do know what "agriculture" means, and I think if you appoint a committee, gentlemen, properly to hear from agriculture, proxy or otherwise, you will hear what he has to say, and if out of our brains we could

evolve something that would do some good for the agriculturalist of this State, we would do good for industry of all kinds, and labor as well. (Applause).

I make no bid to be on a committee. I think the men on that committee will be unfortunate indeed, because they will have to go into a Committee of the Whole to settle the conflict.

Mr. DUNLAP (Champaign). Mr. President, I move that the gentleman's motion lie on the table, the substitute.

THE PRESIDENT. The delegate from Macoupin (Rinaker) moves as a substitute for the motion of the delegate from Champaign (Dunlap) that the words "Industrial Affairs, Agriculture and Labor" in rule 34 be stricken out, and that there be inserted in lieu thereof the words "Economic Relations." The delegate from Champaign (Dunlap) moves to lay the substitute upon the table.

VOICES. Roll call.

(Substitute tabled).

THE PRESIDENT. The substitute is tabled. The question recurs upon the amendment offered by the delegate from Champaign (Dunlap).

Mr. DAVIS (Cook). Mr. President, if this is an occasion for paying tribute to the work of the farmer, the farming community and the consequences of agriculture on the prosperity of the State, please add my name to that roll. (Applause).

But, gentlemen of the Convention, a debt of gratitude is due to the delegate from Champaign, Senator Dunlap, for having presented an amendment which made it possible to bring forth at this time a discussion on a vital principle underlying the very existence of this body.

The work of this Convention, as I take it, shall consist in defining the rights of individuals, their relations between themselves and the relations between individuals and government, and in defining those rights I take it that we shall look to the Constitution of the United States, that we shall look to the Constitution of the State of Illinois, and with those two documents as a guide, present to the people of Illinois a Constitution, bearing in mind the principles under which the State has existed and the principles under which this Government has lived, with such modifications as the change of times in our judgment makes necessary.

Now, gentlemen, please look, to the labors of the Committee on Rules. Please look to the guiding influence which prompted them in recommending the committees which are included under rule 34. They deal with matters of procedure in this hall. They deal with the three departments of goverment—administrative, judicial and legislative, and then, Mr. President, they deal with the relations of the individuals as we know them in the particular work in which they happen to be engaged.

The committee under discussion is known here as the Committee on Industrial Affairs, Agriculture and Labor. Everyone of us here can class himself as a member of one of the three classes. Everyone for whom we are acting here belongs to one or another of these classes. There is justification, there is sound reasoning back of the suggestion that a committee be created here designated by a title which would at once convey that any proposal submitted here which deals with the relations between man and man, and men with a group of men, should go to that committee in order that those relations may be defined as a result of the deliberations of that committee.

Gentlemen, I am not in favor of the amendment proposed by the gentleman from Champaign (Dunlap), because if we vote in favor of that, to be consistent, we must respond to the demand of every delegate here for the creation of any other committee dealing with the rights of any particular class of people in the State of Illinois.

Mr. DUNLAP (Champaign). What committee do you want?

Mr. DAVIS (Cook). If the Senator meant that seriously, my answer to him and to the President of the Convention is I don't desire any,

Mr. DUNLAP (Champaign). The delegate just stated that every delegate here would ask for a committee, and I was wondering what he was interested in.

Mr. DAVIS (Cook). The gentleman has misunderstood me. I didn't say it.

Gentlemen of the Convention, I do believe that we should emphasize the distinction between the work which is before us and the work which is before the legislature of this State or any other. It is perfectly proper, Mr. President, that before the Legislature of Illinois there should be a Committee on Agriculture. There should be a committee on every particular line of endeavor, because it is the duty of the Legislature, by laws, to define the rights and the relations of men. We deal here only with the fundamental rights, and I insist that in the creation of this committee we have combined the rights of individuals as well as the classes.

I hope that that amendment will not prevail.

Mr. JACK (Newton). Mr. President, I come from an agricultural district, practically the only district in the State of Illinois where there is no union labor. I own a farm, and I just want to say this: I think probably the suggestion made by the gentleman from Lawrence (Gee), and probably the suggestion made by the gentleman from Cook (Davis), are good ones, but in my opinion I believe the industrial interests of this State and the labor interests of this State are great enough to have a committee in this Convention before which they can go. And while that is true, the agricultural interests of this State are greater than all of them rolled together, with its many ramifications. (Applause).

I don't know that agriculture is claiming or wanting anything special in the Constitution. Neither would I create an industrial and labor committee or an agriculture committee for the sake of diplomacy. I would create no committee in this Convention for mere diplomacy. I would create that committee for an honest purpose, to hear and determine whether these interests have anything special to be embodied in the new Constitution.

Coming from an agricultural district, practically purely agricultural, I shall support the amendment offered by the gentleman from Champaign (Dunlap), not for the purpose of diplomacy, not for the purpose of throwing dust in the eyes of the farmers of Jasper County and the 46th Senatorial District, but for the purpose of hearing the interest of agriculture in the State of Illinois. For that reason I shall support that motion.

Mr. GORMAN (Cook). Mr. President, if we adopt the amendment of the delegate from Champaign (Dunlap), and if, perchance, the hired men of the farmers should seek a hearing from this Convention, I would like to be informed to what committee they will be referred.

Mr. MILLS (Macon). It seems to me, gentlemen, that the Committee on Rules and Procedure are right in combining these diverse interests and harnessing them up together. Each one has looked upon its own interests so long that it cannot see the interests of anybody else, and if they are brought together under this one committee, then they will have to hear the arguments on the other side. If we have two committees, they will not see each other nor hear each other, and you will have the same controversy in the Convention at large when the matter comes up on a report from these two committees, and you will have the same result when you go before the people of this State. If you bring these two classes together and make each hear the other side, then they can begin to understand that there are two sides to these questions and not one side as they see now.

I am in favor of a fair deal to labor and a fair deal to agriculture, and the only way we can give a fair deal is to bring these two interests together and let them look into each other's eyes and hear the testimony from each other, so that they will begin to understand that there is another side besides their side.

THE PRESIDENT. The question is on the adoption of the amendment offered by the delegate from Champaign, Senator Dunlap.

Mr. DUNLAP (Champaign). Mr. President, I ask for a roll call on this proposition.

THE PRESIDENT. Will the Secretary please read for the information of the Conventiion the amendment offered by the delegate from Champaign.

(Amendment read).

THE PRESIDENT. (After rising vote). The yeas are 53 and the nays are 36. The amendment offered by the delegate from Champaign (Dunlap) prevails. (Applause). Are there any other amendments to 34?

Mr. SCANLAN (LaSalle). Mr. President, we have the Judicial Department, consisting of fifteen members. I might want to amend that by striking out the figure 15 and inserting 21. That is to be one of the important committees of this Convention. In order that that committee be representative of the State, I think it ought to be increased from fifteen to twenty-one. I offer that as an amendment to the committee's report.

THE PRESIDENT. The delegate from LaSalle (Scanlan) moves to further amend section 34 by making the membership of the Committee on Judicial Department consist of twenty-one members instead of fifteen members. Are there any further remarks?

(Amendment lost).

THE PRESIDENT. Are there any further amendments to rule 34?

Mr. MICHAL (Cook). Mr. President, I notice a Committee on Distinction Between Constitutional and Legislative Subjects, consisting of 7 members.

I take it that I am to sit here, like the rest of you gentlemen, to exercise my judgment and give the best that is in me for the purpose of bringing about a basic law for this State that will meet the situation that confronts the conditions of the times today. If my construction of the title of this committee is correct, I take it that this committee will have absolutely in its power to determine what is a constitutional proposition and what is a legislative matter.

I don't feel that I can go back to the constituency that have sent me here and confess to them that I have delegated those rights and those duties and those powers that they have conferred upon me at the general election to any seven men or ten men. I think that on legislative and constitutional matters the Committee of the Whole should act. I think we are possessed of sufficient intelligence and sufficient experience to determine what is a fundamental constitutional proposition and what is a subject for proper legislative action. I don't think that we ought to submit proposals to any committee such as is contemplated by the committee that is sought to be created out of that title.

I think, gentlemen, if you stop to consider the import and the meaning of the title that is applied to this committee, you will find that it is absolutely hostile to all forms of representative government. I think we are here for the purpose of deliberating as a Committee of the Whole on propositions that will affect the welfare of the great commonwealth of Illinois. I don't propose, if I can help it, to offer a proposal to the Convention and have it committed to a committee consisting of seven men who will determine whether or not it is a fit and proper subject or proposal to be incorporated into the basic law of the State. I challenge anyone to tell me that that does not mean that. I say I cannot go back to my constituency and say to them that I cast a vote in favor of such a proposition. I think it is positively and absolutely against the representative form of government which our people demand, and I say, gentlemen, that one of the things that will beat your Constitution, regardless of how good you make it, is the very fact that you have a committee such as this in this room. I say we ought to eliminate that, gentlemen. I say that in the interest of fair play, in the spirit of kindness and decency to all, not in any sense to be contrary or disagreeable to anyone, but we should be able to go to the public on the day of ratification and show that we were united on the proposition and that we did not use any silly methods in delegating the powers the people have conferred upon us to any set of individuals or particular men designated by the President or some other person.

As I say, gentlemen, I am utterly opposed to the creation of a committee under this designation.

Mr. HAMILL (Cook). Mr. President, nothing was further from the minds of the members of the Committee on Rules than to make it impossible or even embarrassing for the gentleman to go back to face his constituency.

The purpose of the rule as drawn was this:

There will doubtless be presented at this Convention many questions upon which doubt will arise in the minds of many of us as to whether or not they are proper subjects for treatment in the Constitutional Convention. It was our idea that a committee should be appointed, to which, in the first instance, such questions might be referred. Needless to say, the decision of that committee upon a question will not be binding upon the gentleman from Cook (Michal), or upon any other member of the Convention. It will be advisory. If the report of the committee is concurred in by the Convention, it will, of course, be binding, but the Convention will have the right to nonconcur, and thereupon the report will be for naught, and the question will be referred to the appropriate committee. It merely gives an opportunity for preliminary discussion before the Convention or in Committee of the Whole upon fundamental questions as to whether or not the proposal is a proper subject for treatment in the Convention. The committee, of course, will not bind the Convention.

Mr. MICHAL (Cook). Do all measures go there first? Is that the purpose of the rule?

Mr. HAMILL (Cook). Not at all, if I may answer the question, but upon the motion of any member of the Convention, when a proposal is made, the President can refer it to such a committee, or upon his own initiative he can refer it to that committee if the question is raised in his mind. It is a preliminary opportunity for discussion of fundamental questions, and it seems to the Committee on Rules it is desirable to have that preliminary discussion, instead of sending questions wholesale to committees, involving the discussion of their merits, when perhaps when they come back to the Convention the opinion of the Convention would be that they were not proper subjects for treatment in the Constitution.

Mr. MICHAL (Cook). May I inquire if, as a member of this Committee on Rules and Procedure, he anticipated at the time that the discussion of this committee took place, that wholesale proposals to the Constitution would embarrass this Convention? May I have a response to that, please?

Mr. HAMILL (Cook). If I understand the question correctly, no.

Mr. MICHAL (Cook). Then your remark about wholesale proposals would not be applicable here at all. My motion is to eliminate this committee entirely.

THE PRESIDENT. The delegate from Cook (Michal) moves to eliminate from rule 34 the committee designated as "Distinction Between Constitutional and Legislative Subjects." The delegate from Champaign, Mr. Green.

Mr. GREEN (Champaign). Mr. President, the question asked by the gentleman from Cook (Michal) is one that was anticipated. There is no doubt that some difference of opinion might arise, and this committee deliberated for some time to find an appropriate title to express what this was designed to accomplish.

It was not the purpose at all to have any judicial determination or even binding action by any committee, but we were confronted with this situation: That in other Constitutional Conventions there had been matters referred to committees which were apparently considered in no way except upon their merits, and were finally rejected, and the action upon the floor of the convention did not disclose the fact, although it was a fact, that the reason they didn't find place in the Constitution was because it was the judgment of the body that they were not proper matters to be introduced into a basic law.

There is great necessity for education of the electorate of this State on the subject matters which may find place in the Constitution. If a committee rejected one of these proposals, the introducer, of those friendly to it, might falsely get the idea that he had been, or they had been, kicked out, so to speak, without a fair hearing; so the very purpose of this com-

mittee was that it would force discussion on the floor of this Convention upon the fundamental questions of the propositions which were rejected, and so that the record would disclose, the press might be advised, and the electorate informed of all the arguments that were had which finally resulted in eliminating that subject matter. It might be a subject matter about which twenty per cent of the electorate believed the Convention should speak, and the reasons for that would never find place upon our Journal except there was some record preserved by the report of a committee, so-called, on jurisdiction, or a committee which would make a report that would force consideration, instead of having them come in from the committee on that subject matter with the recommendation that it be not passed, which would not be replete with the arguments in favor of the proposition, except it was so worded that every man in the State and every delegate would hear discussed on the floor the reason which moved the Convention not to insert that subject matter, and that being done, would relieve the Convention from a lot of useless discussion upon the merits of the proposition if the reasons had well been disclosed why the matter should not be considered. Then if they determined it was proper to be incorporated, it would come up upon its merits.

Mr. HULL (Cook). Don't the rules provide that the report shall not state argument or reason?

Mr. GREEN (Champaign). The report itself shall not contain the reason, but accompanying the report the committees are authorized by the rule to file a statement in support of the basis of the action, and I think the disclosure of this afternoon emphasizes the wisdom of the discussion of things entirely foreign to the question of whether it was a proper subject matter or not, and not a discussion upon the merits of the proposition, but purely upon the question of whether the Convention should take jurisdiction of the subject.

Mr. HULL (Cook). Why couldn't any other committee accompany a report with a like statement of the reasons, and do just as much as would be done by this committee?

Mr. GREEN (Champaign). It could do so, but the fact that the committee had made the report on the subject matter would necessarily draw into the discussion just as has been recently done, a lot of arguments in favor of the merits of a certain form of the proposal which was beside the question of whether or not the subject matter was one to be dealt with.

Mr. HULL (Cook). Isn't this committee really a waste basket committee? Isn't that the best explanation of the committee?

Mr. GREEN (Champaign). I am very glad to answer that question. It was designed as just the other thing, so that the proposals of the delegates in this hall would not find their way into the waste basket or sidetracked for some reason that was not disclosed. They could force this Convention at any time to consider the subject matter of a proposal by having it considered on the floor as to whether it should be incorporated.

Mr. HULL (Cook). Mr. President, I heartily concur in the argument of the gentleman of having it show somewhere that proposals are rejected because they are not properly constitutional propositions, but I have not yet been able to see how this committee is going to function in any way that discloses this particular information, in any way that would not be disclosed in the functioning of any other committee.

Mr. MICHAL (Cook). Mr. President, I want to eliminate the fear of those who might think I am a radical. Far be it from me. But I want to get my ground first where I tread. I am awfully chary of getting on rubber ice.

If the gentleman will be good enough to explain this to me, suppose a proposal is referred by the President to the Committee on Distinction Between Constitutional and Legislative Subjects, and suppose in the room of that committee, after due deliberation—due and careful I of course assume —they without any dissenting vote, or without any minority report, unanimously determine that it is a legislative proposition, will the gentleman be good enough to explain to me, supposing I were the victim of such a pro-

cedure—I use the word victim in a figurative sense—what would be my course to bring that up before this Convention to be heard in the Committee of the Whole, and not be foreclosed?

Mr. GREEN (Champaign). The way it was discussed in committee, if the committee brought in such a report, the delegate could move to nonconcur in the report when the general orders of the day were reached, and the Convention would go into Committee of the Whole, and answering that question, if it were referred to a committee of which he was a member, and they should determine that it properly was a subject which ought not to be considered by the Convention, they could vote it back to the Convention with the recommendation it go to this committee for this concurrence, so that the particular subject would come before the Convention; and if it were some other individual who had presented the proposal, he would know that he was going to get a hearing. Its object was to give everybody a hearing on the proposition as to whether the subject matter of the proposal shall receive consideration by the Convention.

THE PRESIDENT. The question arises on the amendment offered by the delegate from Cook, Mr. Michal.

Mr. MICHAL (Cook). Mr. President, in view of the explanation, I will withdraw my motion.

THE PRESIDENT. If there are no objections, the motion of the delegate from Cook (Michal) is now withdrawn. Is there anything more on rule 34? If not, the Secretary will proceed.

THE SECRETARY. Number 35, 36——

Mr. DOVE (Shelby). Mr. President, I offer an amendment to rule 36.

AMENDMENT No. 9.

Amend section 36, by inserting after the last word, "public," the following: Any person who desires to appear before any of the standing or select committees of this Convention for the purpose of presenting arguments for or against any proposition committed to the consideration of any committee of the Convention or pending before the Convention itself, shall first register his or her name and address with the Secretary of this Convention or with the secretary of any committee before which he or she may desire to appear, together with all information as to the capacity in which he or she so appears, the fact whether or not he or she has received or expects to receive compensation for such service and by whom said compensation is to be paid. All records of the Secretary provided for under this rule shall be open to the public.

THE PRESIDENT. Are there any remarks on the amendment offered by the delegate from Shelby, Mr. Dove?

Mr. DOVE (Shelby). Mr. President. This rule, gentlemen, is self-explanatory. The amendment does not take away anything from the rule, or the tentative rule that has been recommended by the committee, but simply adds a provision whereby anyone who seeks to present any argument before any committee of this Convention shall, before doing so, register his or her name with the Secretary, either of the Convention or of the committee, stating in what respect he or she appears, whether in an individual capacity or representative, and if representative, whether or not he or she is receiving any compensation for the service, and by whom that compensation has been or is to be paid.

This rule, if I may explain for a moment, is not an original one. Many legislative bodies have found it necessary to adopt some regulation with reference to those who appear before any committee and present any arguments for or against any proposition in that committee. I say many legislative bodies have adopted those regulations. Likewise a number of the Constitutional Conventions of recent years have adopted similar regulations or similar rules. For instance, the Ohio Constitutional Convention of 1912 adopted a rule much more drastic than this one. The Massachusetts Convention adopted a rule. They have in that state a legislative enactment for

the registration of those desiring to be heard before committees, and they specifically adopted this provision as governing their Constitutional Convention. New York in its Constitutional Convention touched this subject remotely.

I have been unable to follow the reasoning of anyone who has had any opposition to a rule of this character. It does not foreclose anyone from presenting his arguments before any committee. On the other hand, it invites argument to be presented.

The rule provides, as proposed by the committee, that all committee meetings shall be public. I heartily concur in that rule. This simply goes a step farther, and says to anyone who has any proposition to present to that committee, either in favor of the proposal or against it, that before being heard by that committee, he should go to the secretary of the committee or of this Convention, disclose to that person his name and address, in what respect he appears, whether he is being compensated for his service —not how much he is to receive, but simply whether or not he is to be compensated, and, if so, by whom that compensation is to be paid.

I submit that this amendment should be adopted.

THE PRESIDENT. The question arises on the amendment offered by the delegate from Shelby (Dove).

Mr. MICHAL (Cook). Mr. President, I move that that amendment be laid on the table, and in support of that motion, Mr. President, I want to say this:

I don't think we ought to follow in the footsteps of other Constitutional Conventions. I think we who are assembled here have sufficient intelligence to guide our own destinies without using the precedents of any other state. One who has a proposition to present to a committee will take this proposed procedure as an affront. An amendment of this kind somewhat reflects upon the integrity of the personnel of this Convention.

What do I care what lawyer or what lobbyist or delegate of any association comes here, or whether he gets paid or not? He is here to express to us what his interests are. He tells us he represents a certain class of people or a certain line of industry, and that the people he represents are desirous of securing such and such legislation. That is all. What interest is it to us where he comes from, what his pay is, or if he does get paid? This morning I got a lot of mail, among that a letter from teachers. Now, why submit people of that kind to that kind of stuff? I don't think it is fair. I think this committee can stand on its honor. It doesn't need a sword of Damocles hanging over its head, and I think this Convention ought to repudiate that amendment.

THE PRESIDENT. The delegate from Shelby (Dove) moves the adoption of the amendment as read by the Secretary, and the gentleman from Cook (Michal) moves to table the amendment. The question arises on the motion of the delegate from Cook (Michal) to table the amendment.

(Motion to table prevailed).

Mr. MILLER (Macon). Mr. President, I would like to rise for information. This rule provides for secret committee meetings as distinguished from hearings. May I ask that one of the members of the rules committee state why that was considered necessary? I ask for the information because my understanding is that in the legislature no meetings other than public are held.

Mr. GALE (Knox). Mr. President, it seems that the hearings before the committees should be open to the public. It does not seem desirable that a committee should be foreclosed from at times going into executive session. Therefore the rule was worded as stated.

THE PRESIDENT. Proceed, Mr. Secretary.

THE SECRETARY. Number 37, 38, 39, 40, 41, 42, 43, 44——

Mr. HULL (Cook). Mr. President, I think there is one word in there that confuses the meaning. In line 3 of rule 44, what is meant by the word "except?" It should read "and in the absence of a special order, the Committee of the Whole shall consider," and so forth. Is that correct? If it is, I will make a motion to strike out that word "except."

THE PRESIDENT. The delegate from Cook (Hull) moves to strike from rule 44, line 3, the word "except."

(Motion prevailed).

THE SECRETARY. Number 45, 46, 47, 48——

Mr. RINAKER (Macoupin). Mr. President, in reading rules 48 and 49 two questions arise in my mind. Perhaps it will not be necessary to make a motion to amend if the question can be cleared up by an inquiry.

It is provided in rule 48 that "the previous question shall not be enforced." That is in a meeting of Committee of the Whole.

Rule 49 provides that "the Committee of the Whole may at any time close debate, and bring on a direct vote on any pending proposition by a majority of two-thirds of the committee."

Now that rule is purely, if I understand it, a determination of the previous question, and yet it does not say what is meant by two-thirds of the committee. That would be two-thirds of the entire membership.

It seems to me that should be made more definite and that that rule is really in conflict with the first provision that I read. I understand the parliamentary rule is that the Committee of the Whole cannot restrict debate or discussion except by some method that shall be previously determined upon, and this is evidently an attempt to do that, but it would seem to me that it is indefinite.

Would it not clear the matter up if rule 49 were omitted and there should be inserted after the word "enforced" the words "except by a two-thirds vote of the members of the committee present and voting on the question?" I may be wrong as to the meaning of the rule.

Mr. DUNLAP (Champaign). Mr. President, as I understand the reading of those two rules taken together, it means what it says. The ordering of the previous question involves not only the proposition before the house, which may be an amendment to the main question, but it involves the main question itself, so that you have to go clear down the line when you order the previous question, and all amendments, including the previous question, must be put, but under rule 49 as written here you can order the previous question on the proposition that is directly before the house, which may be an amendment to the main question, and it leaves the matter open for further amendment after that is settled.

Mr. RINAKER (Macoupin). I didn't understand it. May I not inquire further than that if it would not strengthen rule 49 to prescribe what is meant by two-thirds of the committee? It doesn't state. The committee is the whole membership.

Mr. LINDLY (Bond). It doesn't take a majority of the members present.

Mr. RINAKER (Macoupin). When rule 49 is read I will put in an amendment as to that particular.

THE SECRETARY. Number 49——

Mr. MILLER (Cook). Mr. President, if I may be permitted to talk a moment, it seems to me that there is an inconsistency between rules 36 and 39.

Rule 36, as explained by a member of the rules committee, provides for executive sessions of the committee, and rule 39 provides that "when any proposal is about to be considered by a committee, the introducer of such proposal shall be notified of the time and place where such proposal shall be considered by such committee."

Obviously the consideration would include not merely the hearing but any subsequent consideration, and I cannot quite understand why those two are not in conflict. It seems to me that either the word "hearings" should be omitted from 36 and the word "meetings" substituted, or an amendment made to rule 39.

In order to bring the matter up, I move that the word "considered" in rule 39 be changed to "heard."

Mr. TRAUTMANN (St. Clair). Mr. President, as I understand, rule 36 applies to the public, and rule 39 applies to a delegate to this Convention,

Rule 36 provides that all committee hearings shall be open to the public, and rule 39 applies entirely to the delegate who has introduced the proposal.

Mr. MILLER (Cook). Then it was not intended by rule 36 to provide for executive sessions, but to exclude the public and not the introducer?

Mr. TRAUTMANN (St. Clair). Yes sir. For that reason I don't think they are in conflict.

THE PRESIDENT. Does the delegate insist upon his motion?

Mr. MILLER (Cook). I do not.

Mr. RINAKER (Macoupin). I would like to move to amend rule 49 by inserting after the word "committee" in the third line of the rule as printed the words "present and voting on the question," so that it would read that it should be done upon a vote of two-thirds of those present and voting.

Mr. GREEN (Champaign). Mr. President, may I ask the delegate from Macoupin (Rinaker) this question? I am a little worried as to whether that would work out properly. Suppose there was less than a quorum present in fact, and, as is often the case in Committee of the Whole, no notice taken of it, and the committee was proceeding as if there were a quorum. Might it not be possible for some minority of the Convention to bring to a direct vote some question in Committee of the Whole, when perhaps there were not enough present, and debate should then close on the subject, to the future embarrassment, perhaps, of the majority of the committee? I am just asking that as a matter of practical working.

Mr. RINAKER (Macoupin). That might possibly be, but if so, it is a part of the rule that whenever there is less than a quorum present, the committee shall at once dissolve, or rise.

Mr. DUNLAP (Champaign). That is obviated by the fact that any member of the committee who objects to the consideration can raise the point of a quorum and have it determined immediately.

Mr. RINAKER (Macoupin). The effect I desire to accomplish is simply to make definite the number that should be required to close debate.

Mr. GREEN (Champaign). Is it your purpose that two-thirds of the bare quorum could do that?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. GREEN (Champaign). That would close debate on the subject?

Mr. RINAKER (Macoupin). Yes, sir.

Mr. GREEN (Champaign). Just so we understand it. I have no personal opinion one way or the other.

THE PRESIDENT. Are you ready for the question?

(Amendment adopted).

Thereupon the Secretary read rules 50 and 51.

Mr. MICHAELSON (Cook). I offer the following amendment to section 51 and move its adoption:

AMENDMENT No. 12.

Amend by the addition of Rule 51A as follows: At least 90 days prior to the day of election at which the Constitution shall be submitted to a vote of the electors of the State of Illinois, the Convention, under the supervision of the President and Secretary, shall have printed, published and mailed to every qualified voter in the State, a copy of the Constitution as adopted by the Convention, together with a majority brief on each article, same not to exceed 500 words and a minority brief to any article, same not to exceed 500 words, said majority brief to bear the signature of the chairman of the committee having had the matter in charge and said minority brief if any there be, to be signed by delegate or delegates submitting the same.

Mr. TRAUTMANN (St. Clair). That rule in the first place is inconsistent with the present Constitution which provides that this document shall be submitted to the voters of the State not less than 60 days or more

than six months after final adjournment of the Convention. If it is decided that this document shall be submitted 70 days after we adjourn we could not get this notice to the voters within 90 days.

I will ask the delegate from Cook (Michaelson) if he is familiar with the financial situation of this Convention. We can make no appropriations and can only spend what we have been given. I will ask him if he knows what this would cost if we adopt his amendment. Before we get through we will have spent every dollar that has been appropriated. We have a committee arranged for on Submission and Address and this matter can be handled by that committee.

Mr. MICHAELSON (Cook). The rules of procedure might have been followed on this question as well as other questions. The question has not as yet been stated by the chair and the gentleman from St. Clair (Trautmann) was recognized and raised objections before the chair had propounded the question the first time. There must be some reason for his agitation. I am willing to wait until the chair puts the question and then I will have a few words to say.

THE PRESIDENT. There is an amendment offered to section 51 called section 51A. Are there any remarks?

Mr. MICHAELSON (Cook). In this Convention we have to keep in mind the ultimate result as well as the first steps, the organization of the Convention. The big thing is the ratification by the voters of the State of Illinois of the product of this Convention. In order that it may be ratified intelligently, they must know what they are going to ratify and must be acquainted with every word of it.

We are here representing our several districts in the capacity of delegates to grant to a central government certain powers on behalf of our constituency. We are not here to make any laws for anybody, but we are here to grant powers representing our constituency. I come from a district of 300,000 people. I expect that some provision will be made, but no provision up to date has been suggested whereby those 300,000 citizens in that district, before they are asked to vote, shall know on what they are voting and shall know what powers they are granting to a central government. If they don't know, they cannot vote intelligently. There is not a delegate in this Convention but who wants his constituency to know the result of our work. He wants to go back to his district proud of the fact that he has done something in their behalf. He has nothing to hide and he wants everything free and open and an intelligent expression upon the work of this Convention.

Are you going to get a detailed statement from the daily press of the State of Illinois and particularly in the City of Chicago whose main business seems to be to violate one of the ten Commandments—"Thou shalt not lie." We have had experiences in Cook County and the City of Chicago. Quite recently an ordinance granting certain powers to a public service corporation was submitted to the people, passed by the city council, and submitted to a referendum vote of the people. The people were given no chance to find out what was in the ordinance through the columns of the newspapers. They followed their usual custom. Citizens were told that they could get a copy of the ordinance by applying to the chairman of a certain committee. When they went in to see the chairman of that committee they were presented with a copy of the chairman's comments upon the ordinance. That is what we are up against in the City of Chicago. As a delegate from my district I do not intend that my people shall be kept in ignorance of what has taken place in this Convention.

The question of expense has been raised. A great sum of money has been appropriated for the expenses. The gentleman from St. Clair (Trautmann) has said that money will be more than expended. I have not voted upon any bills for expenses as yet. I imagine that two-fifths of it has been taken up to pay salaries and the other three-fifths still remains. In the event that there is not enough money to do what my amendment calls for, to give every voter in the State of Illinois a copy of this Constitution, I stand ready to make a motion that this Convention adjourn until such

time as the legislature will grant the necessary funds. I say you have to treat your people on the square. You cannot come to them and say that this is a good Constitution and expect them to vote for it without knowing something more than that. They should have the facts. They are entitled to the facts. This Convention will not be doing duty if it does not make provision and see to it that every voter in the State gets a copy of this Constitution.

In New York a Constitution was submitted and failed of adoption to the tune of 500,000. If this amendment is not adopted and the people are not told what is in the Constitution, you can expect the same results in this State. It should be the most open and the freest of documents and, if it is a matter of expense, some arrangements should be made to provide for it.

I say to you that this is a serious matter. I want to vote for a Constitution that will be ratified in my district. I want to see the State of Illinois up to the minute on its basic law, but I also stand ready to go into every district in the State if what is in that Constitution does not meet with my approval and the best indication of what will happen is your willingness to give a copy to every voter in the State and your willingness to show them the fruits of your work in this Convention. I ask the passage of this amendment and ask for a roll call.

Mr. GREEN (Champaign). Your Committee on Rules will endorse the high sentiments expressed by the gentleman from Cook (Michaelson) on the ultimate purpose of the amendment. The only matter here is one of procedure. The Committee on Rules has provided in the list of standing committees for a Committee on Submission and Address. I think the suggestion made by the gentleman from Cook (Michaelson) would be pertinent to the consideration of that committee. The arguments in favor of this matter should be directed to the committee. We all agree with the high sentiment expressed by the delegate from Cook (Michaelson) that all voters should have a copy of the work of this Convention.

THE PRESIDENT. The question arises on the amendment offered by Mr. Michaelson (Cook) to insert a new section known as 51A. Are you ready for the question?

(Upon a viva voce vote the amendment was lost).

Thereupon the Secretary read rules 52, 53, 54, 55, 56, 57, 58, 59, 60, 61 and 62.

Mr. DAVIS (Cook). Regarding Rule 62, the last sentence provides that "a motion to reconsider shall take precedence of all other questions except the motion to adjourn." I can see that some one voting with the majority might make a motion to reconsider about the time a motion to adjourn is made.

Mr. LINDLY (Bond). A motion to adjourn is in order at all times. It is the high privilege of any member to move to adjourn in any body that is known. The question to reconsider would be the first thing taken up when the Convention reconvenes.

Mr. DAVIS (Cook). It would have to be taken up the same day.

Mr. LINDLY (Bond). No, it would be taken up the next day.

Mr. DAVIS (Cook). That answers my question.

Mr. DUNLAP (Champaign). It says "give notice that he will make such motion, but no motion for the reconsideration of any vote shall be in order unless on the same or the next day of actual session of the Convention." In ordinary legislative prcedure it is customary to have that rule slightly different from this in that the man who gives notice to reconsider shall control the motion for the next legislative day, but after that any member can renew that motion. It would seem to me that the man who made the motion to reconsider could control that up to the next day. I think it should be that the following day any member of the majority voting may make such motion to reconsider. I think that is in fairness to the members that that amendment should be in such form as to make that possible. I will make a motion that the man who gives notice of a motion to reconsider shall control that motion for one day only and there-

after any member may make such motion on the succeeding legislative day. I will put that in writing.

THE PRESIDENT. We will pass that for a moment and proceed to the other rules.

Thereupon the Secretary read Rules 64, 65 and 66.

Mr. RINAKER (Macoupin). I desire to offer an amendment which allows individuals to be on the floor. I would like to speak on that motion.

THE PRESIDENT. Proceed.

Mr. RINAKER (Macoupin). There are living at this time two members of the Constitutional Convention last held in 1862. I don't know the number of those who may be living who were members of the Convention of 1870, but it seems to me it would be appropriate if in providing for those who remain on the floor during the session that we permit those old gentlemen who have been in former Conventions to have the privileges of the floor. The number is necessarily small.

In that connection let me say that I spent the afternoon with one of them last Monday and he is 86 years old. He was a member of the Convention of '62 and was in the Senate which passed the enabling act for the Convention.

THE PRESIDENT. Are you ready for the question?

Mr. REVELL (Cook). I would like to ask the gentleman to give the names of those members for the information of the Convention.

Mr. RINAKER (Macoupin). I would be glad to do that but I don't know them.

THE PRESIDENT. The Secretary will read the amendment.

AMENDMENT No. 14.

Amend section 66, by inserting after the word "court" in line 3 thereof, the words "members of former Constitutional Conventions of this State."

(Amendment adopted).

Thereupon the Secretary read rules 67 to 79, both inclusive.

Mr. DAWES (Cook). I move that rule 79 be eliminated entirely. I make this motion partly for the purpose of ascertaining the intentions of the committee in including it among the rules, and partly for the purpose of bringing to the attention of this Convention that a Constitutional Convention is called whenever a decision of both houses by a two-thirds vote regards it as necessary and then upon submission of the proposition to the people.

The legislature of the State has no duties after that with respect to the duties of a Constitutional Convention other than to fix the time and place of meeting and fix the pay of its members and provide for the payment thereof.

The Act of the legislature which it is proposed to include among the rules of this Convention does other things than fix the time and place of the meeting and provide for the payment of the delegates. In so far as this legislature exceeding the limits fixed in the Constitution, that legislation had no effect upon us whatever and if we adopt as one of the rules of this Convention the Act of the legislature we shall in some respects submit ourselves to some conditions which it is not necessary for us to accept.

Before voting in favor of this rule I would like to know the inference of the adoption of such a rule. When men are elected to positions of responsibility and power it is well to look to the sources of authority and exercise the authority that is committed to them, particularly in an organization such as this which derives its power and authority from the very source of authority and whose meeting is rare and whose duties are important. Therefore, it may be necessary for us to consider the sources of our power of authority and retain all that are given to us and not limit ourselves without knowing precisely what we are doing. In order that the Convention may preserve all of the liberty that precedent and procedure gives to an organization of this kind, I move the elimination of rule 79.

Mr. ELTING (McDonough). I think this rule should be eliminated. I don't think this Convention should be limited by any other branch of our government—legislative, executive or judicial. This is a body of free men. We are not bound by anything except the calling of this Convention together. I think we should remain free, free to follow the majority wish of this Convention. It is against the policy of all Constitutional Conventions that I have heard of and we should divorce as far as possible the legislative, executive and judicial from the deliberations of the Convention.

Mr. GREEN (Champaign). This rule was put in this draft for the protection of the officers of the Convention and to insure strict legal compliance with whatever formalities might be required for the proper results for which we were called. It is not designed in any way to limit the power of the Convention, but we are limited. For instance, the rules contain no detail for the expenditure of money. There will of necessity be resolutions passed which may not be complete in form. There must be vouchers signed by the President of the Convention. There is $500,000 appropriated and part of it will be spent. If it should develop that there is anything in that Act which curtails any powers which we possess, a subsequent rule could be adopted to modify this rule. We thought we should not impose on the Committee on Expenditures any measures of financial responsibility or in any manner jeopardize the compensation or the prerogative of any officer or employe of the Convention by the absence of anything from the rules. If there is anything omitted from the rules that is in the law this puts it in the rules as supplemental. Your suggestion will be met at any time by any subsequent rule to meet any situation that might arise.

Mr. HULL (Cook). Does this in any way control the question of who will be entitled to vote on the submission?

Mr. GREEN (Champaign). In my judgment it does not, but the law taken with the present constitutional provision does of necessity have some influence upon the time within which the document must be submitted.

Mr. HULL (Cook). Does it say anything about who is entitled to vote?

Mr. DAWES (Cook). Does it refer to anything like that indirectly?

Mr. GREEN (Champaign). It does on the matter of expenditures and it should do so.

Mr. HULL (Cook). Suppose the act under which we are proceeding controls the expenditures, is it necessary to incorporate it in the rules in order to have that act effective so far as the expenditures are concerned?

Mr. GREEN (Champaign). It can do no harm in the rules.

Mr. HULL (Cook). If we see it is necessary to have such a rule later on, we can then incorporate it in the rules. I fear we will be taking some step that we don't know anything about.

Mr. DAWES (Cook). Yes, where the benefits at this time seem to be equally indefinite and uncertain. I think we might be limiting our powers by adopting this rule.

Mr. SUTHERLAND (Cook). This appears to be an interesting subject and one which may require some discussion before the Convention settles it. I should like to have the opportunity to read the Act again before I pass on it and, therefore, I will move that the further consideration of this amendment to the rules be deferred until tomorrow.

Mr. SHANAHAN (Cook). If that motion is adopted it means that the rules will have to go over until tomorrow. This is the last rule and these rules can be adopted tonight so the Convention can proceed to business tomorrow morning.

THE PRESIDENT. Are you ready for the question?

(Motion lost).

THE PRESIDENT. The question recurs on the adoption of the amendment offered by the gentleman from Cook (Dawes) to rule 79.

A division of the Convention was had, resulting as follows: Yeas 47; nays 38.

(Amendment adopted).

Mr. DUNLAP (Champaign). I now offer my amendment to section 62.

AMENDMENT No. 13.

Amend section 62 by inserting after the word "Convention" in the fifth line of the printed rule the following: "Provided that should the member giving notice of a motion to reconsider not make such motion within the time prescribed by the rules, any other members voting in the majority may make such motion within the next session of the Convention.

Mr. JARMAN (Schuyler). Suppose a delegate moves to reconsider a question on the second day, but the delegate who would have control of the motion withdraws his motion?

Mr. DUNLAP (Champaign). The man who originally makes the motion to reconsider controls it that day and the next succeeding day, but after that any member of the Convention may make such motion providing he voted in the majority. That is the effect of this amendment.

Mr. JARMAN (Schuyler). Suppose he doesn't give notice, but gives the notice to reconsider?

Mr. DUNLAP (Champaign). Then it is immediately considered. It doesn't go over until the next day, but is immediately considered.

Mr. WOODWARD (Cook). That amendment refers to the next legislative day. Shouldn't the language be changed to the "next Convention day"?

Mr. DUNLAP (Champaign). I will change that.

Mr. GALE (Knox). The Rules Committee has been very careful in these rules not to use the terms Convention or legislative day, but to refer to them as sessions of the Convention. I think this should be in conformity with the rest of the rules and make it "the next session of the Convention."

Mr. DUNLAP (Champaign). I will accept that suggestion.

(Amendment adopted).

THE PRESIDENT. The question now arises on the approval of the report of the Committee on Rules and Procedure as amended by the Convention.

(Rules adopted).

Mr. GORMAN (Cook). I offer the following resolution and will ask to have the Secretary read it and then move its adoption:

RESOLUTION No. 7.

WHEREAS, Almost at the inception of our labors, the Angel of Death has descended upon us and removed from our midst, Delegate Michael F. Sullivan of the Second Senatorial District; and,

WHEREAS, In the decease of him, who has suddenly been summoned across the Great Divide, the people of Cook County have lost an efficient public officer, who has for numerous years functioned in divers ministerial positions of civic trust; and,

WHEREAS, In his death, this Constitutional Convention is bereft of one whose learning and vast experience would have lent lustre to its solemn deliberations, and many delegates now mourn the loss of an intimate friend of long association; therefore, be it

Resolved, That the President of the Convention appoint a committee of delegates to attend the funeral of our late co-Delegate, Michael F. Sullivan; that these resolutions be entered upon the Journal of the Convention and a copy of the same be sent by the Secretary of the Convention to the family of the deceased; and in order to show our sorrow for the demise of our lamented co-Delegate and to renew our reverential allegiance to the Divinity which shapes our destiny, that we do now adjourn.

Resolution unanimously adopted by a rising vote.

THE PRESIDENT. On the committee to attend the funeral of late Delegate Sullivan, the President appoints Messrs. Gorman, O'Brien, Rosenberg, Michaelson, Corcoran, Potts, Kunde, Pincus, Iarussi, Beckman, Traeger, Latchford, Davis, Wolff, Charles Woodward, Frole, McEwen, Michal, Sutherland and E. H. Dupee.

The Convention will stand adjourned until tomorrow morning at 10 o'clock.

Whereupon the Convention adjourned until ten o'clock A. M., Thursday, January 15, 1920.

THURSDAY, JANUARY 15, 1920.

10:00 o'Clock A. M.

Convention met, pursuant to adjournment.

Hon. Charles E. Woodward, President, presiding.

Prayer by Rev. Lester Leake Riley, Rector of Christ's Episcopal Church, Springfield, Illinois.

Whereupon, the Secretary proceeded to read the Journal of the previous session of the Convention, and upon motion of Mr. Shanahan (Cook) the reading of the Journal was dispensed with and approved.

THE PRESIDENT. The statute under which this Convention is convened, fixes the salary and compensation of the delegates. The statute further provides that the pay and mileage allowed to each delegate shall be certified by the President of the Convention and entered on the Journal. The President reports to the Convention that he has certified the pay and mileage of each delegate who has taken the oath of office, and the President directs the certificate be entered by the Secretary upon the Journal of this Convention.

The President further announces that he will appoint on the committee known as Rules and Procedure, the following:

President Woodward, Chairman; Messrs. Green, Shanahan, Curtis, Hamill, Trautman, Gale, Wall, Pearce and Quinn.

The President further announces the members of the Committee on Expenditures and Supplies, as follows:

Mr. Wilson, Chairman; Messrs. Stahl, Taff, Paddock and Six.

THE PRESIDENT. We will proceed on the order of special orders of the day, reports of standing committees, reports of select committees and introduction and first reading of proposals.

Mr. MIGHELL (Kane). I offer, Mr. President, Proposal No. 1.

Mr. GALE (Knox). I have a resolution here that I desire to introduce, and move its adoption.

Mr. DUNLAP (Champaign). Mr. President, we are on the order of proposals.

THE PRESIDENT. Yes, but I will ask unanimous consent to suspend for just a moment, to consider an imperative resolution.

VOICES. Leave.

THE PRESIDENT. The Secretary will read the resolution.

RESLUTION No. 8.

Resolved, That the President of this Convention be and is hereby authorized to appoint the following employees to the respective positions hereinafter enumerated at the respective compensations hereinafter provided as follows:

One legal secretary to the President at the rate of $350 per month.

One private Secretary to the President at the rate of $180 per month.

One stenographer to the President at the rate of $125 per month.

One messenger to the President at the rate of $105 per month.

One janitor for the executive offices at the rate of $105 per month.

One Sergeant-at-Arms at the rate of $200 per month.

One First Assistant Sergeant-at-Arms at the rate of $150 per month.

Five assistants to the Sergeant-at-Arms at the rate of $125 per month each.

Nine janitors at the rate of $105 per month each.

Two cloakroom attendants at the rate of $105 per month each.
One toilet room attendant at the rate of $105 per month.
One assistant postmaster at the rate of $125 per month.
One postmaster at the rate of $125 per month.
One mail carrier at the rate of $105 per month.
Ten pages at the rate of $12 per week each.
Twenty stenographers and clerks at the rate of $125 per month each.
One press messenger at the rate of $150 per month.
One first assistant to the Secretary at the rate of $275 per month.
One second assistant to the Secretary at the rate of $200 per month.
One Journal Clerk at the rate of $180 per month.
Two file clerks at the rate of $150 per month each.
Two stenographers to the Secretary at the rate of $150 per month each.
One bookkeeper to the Secretary at the rate of $150 per month.
One janitor for the Secretary's offices at the rate of $105 per month.
One Chaplain at the rate of $40 per week.
One clerk to the Committee on Phraseology and Style at the rate of $200 per month.
Two typists to the Committee on Phraseology and Style at the rate of $150 per month.

Mr. REVELL (Cook). Mr. President, I suppose it will delay the proceedings if this resolution was to be referred to the Committee on Expenditures. I would like to see it referred, but I do not wish to delay the workings of this Convention. It is my impression that the expenditures entailed by the appointments called for in the resolution amount to a considerable sum of money, and they should receive careful consideration.

We have heard something about the amount of money appropriated for this Convention and one of the first things we ought to think about is that we so conduct this Convention that it will be known throughout the State as having been conducted in an economical way. It strikes me that if we pass this resolution today, we could not put the impress of economy on the Convention.

Perhaps I had better make a motion to have it referred to the committee, and the committee can report quickly and, I therefore move you that this resolution be referred to the Committee on Expenditures just appointed.

(Upon a yea and nay vote, the motion was lost).

THE PRESIDENT. A division of the Convention is called for, and upon this question, the motion of the gentleman from Cook (Revell), the Secretary will call the roll.

(Roll called).

Mr. DAVIS (Cook) (Pending roll-call). There seems to be some misunderstanding on this question and before the vote is announced, if I am not out of order, I would move that the resolution introduced be referred to the Committee on Expenditures, with the request that that committee go into session right away and report its recommendations immediately. We will be able to vote more intelligently if we get some opinion as to the amount of money involved by the passage of this resolution.

Mr. PADDOCK (Sangamon). I make the point of order that the motion has been voted on, and voted down.

Mr. SHANAHAN (Cook). An explanation is due the Convention on this resolution. This resolutiion should have come in last night after the adoption of the rules, in order that the President might appoint some necessary employees for this Convention. That not having been done, it should have been introduced this morning before there was any Committee on Expenditures and Supplies appointed. Then there would not have been any question about its passage.

The Committee on Rules which recommends this resolution be adopted, debated it for a long time and tried to keep the salaries down, and a majority of the committee thought that the salaries recommended were too low, and that they should be increased.

The amount of money and the number of employees has been cut to the very lowest point. I say that as one who has had some experience with employees in the General Assembly. I have no objection to the resolution being referred to the Committee on Expenditures and Supplies.

Mr. REVELL (Cook). I would like to ask a few questions.

Mr. SHANAHAN (Cook). I will be pleased to answer any questions.

Mr. REVELL (Cook). I would like you to explain why the Sergeant-at-Arms requires four or five assistants at $125 a month?

Mr. SHANAHAN (Cook). I will be glad to answer that. In the General Assembly, we have always had a Sergeant-at-Arms and three assistants as well as from four to ten policemen. The question has always been asked, what do you want policemen for? The answer is that you don't need policemen but you do need attendants at the various doors, in the gallery and back passageways. The committee decided that instead of having so many policemen they would make them all Assistant Seargeants-at-Arms. It is necessary to have three men at the entrance door to the Convention hall, one on the outside, one at the door and one inside. It is absolutely necessary to have an attendant in the gallery and it is necessary to have someone to look after the windows and doors. Therefore I believe, as did the committee, that the number specified in this resolution is about the lowest that could be gotten along with.

Mr. REVELL (Cook). How many janitors are there?

Mr. SHANAHAN (Cook). There are nine janitors, and that is the least number that we could get along with.

Mr. REVELL (Cook). The gentleman who has just taken his seat (Shanahan) predicated his remarks on the requirements of the legislature. This is not a session of the legislature and if anything convinces me more of the fact that these appointments and the expenditures thereby entailed should be referred to the Committee on Expenditures, it is the statement of the gentleman from Cook. It is true that this body should be properly protected but it is not a fact, in my humble opinion, that it should be protected upon the lines that the legislature is protected. We do not look forward here to any of the disputes, if I am properly informed by the newspapers of this State, that occur in the legislature. This body is of an entirely different character. I don't say it is better in any way, but I believe that there are any number of appointments suggested in the resolution which we could easily dispense with and it strikes me that it would not be a very good picture to send out to the people of the State that we have arranged for all of the expenditures of this Convention without the proper committee reporting that they were necessary and needed. It is certainly out of order, according to our rules, and we could be held up in the press as a body that is not following the rules that we have laid down for ourselves.

We should look carefully after the cost of this Convention. I hope if it is only for fifteen minutes, that in the interest of proper procedure that this resolution go to the proper committee and let them return a report on the number of employees and the total cost. I don't know what the total cost is but I presume it does not eat up the entire appropriation. We should know as near as possible how much money will be eaten up upon the adoption of this resolution.

Mr. SHANAHAN (Cook). I have heard these general statements for so many years that this one sounds familiar. I know that this body is much superior to any legislative body that has ever met in Illinois——

Mr. REVELL (Cook). I did not say that.

Mr. SHANAHAN (Cook) (Continuing). ——and I suppose that there will be no disputes in this body. We are so saintly and so orderly that we will all agree with each other. However, I venture to say during the deliberations of this body there will be just as many heated arguments as in any session of the General Assembly. It might be well for the gentleman from Cook (Revell) to point out where these extra employees are that he is fearful about.

I was a member of the Committee on Rules and kept protesting against the number of employees, cutting them down to the very lowest number. It might surprise the gentleman from Cook (Revell) to know that there was a request made to the Committee on Rules that a stenographer be provided for every member of this body. It might surprise him to know that twenty stenographers and clerks is a very small number for one hundred and two members and twenty-four standing committees. If the gentleman (Revell) can point out where the extra employees are in this resolution, they should be cut off here and now.

Mr. REVELL (Cook). Do you suppose that any member of this Convention is going to be able to do that? You say this committee has given a great deal of time to this proposition and you ask me simply upon the reading of it to point out any defects, if there are defects in it. I cannot do that but I will ask if you can tell me the total amount that is involved in the proposed resolution.

Mr. SHANAHAN (Cook). No, sir; because I don't know when the employees will be appointed or how long the Convention will last.

Mr. REVELL (Cook). Suppose that they are appointed tomorrow and the Convention will run four months.

Mr. GREEN (Champaign). With the permission of the chair, I will answer that. It will amount to about $7,000.00 a month.

Let me say at this time that I fear there is a little misunderstanding about the adoption of this resolution. It does not contain a direction to the President to immediately employ these people, but is an authorization that he may do so. He announced the Committee on Expenditures and Supplies in order that before any appointments were made the advice of that committee could be had so that the committee might help the President in selecting from this list of employees those whom he would employ and from time to time to employ under this general authorization.

Mr. REVELL (Cook). The statement of the delegate who has just taken his seat (Green) reassures me. I had no idea of the amount of money involved and the amount mentioned seems to me so just that I have no desire whatever to take up any further time of this Convention and my faith in the organization is such that I withdraw my objection.

Mr. DUPEE (Cook). If in order, I would like to change my vote from "no" to "aye."

Mr. WOLFF (Cook). I wish to change my vote from "no" to "aye."

Mr. WHITMAN (Boone). There is a point of order before the house with no ruling on it.

THE PRESIDENT. The gentleman from Boone (Whitman) is correct. The point of order is well taken.

Mr. DUPUY (Cook). I thought it would be a wrong way to handle this matter without a reference to the committee, but with the explanations offered, I desire to change my vote from "no" to "aye."

Mr. DEYOUNG (Cook). At the time I voted on this resolution I voted "no" because I thought a resolution of that importance should have gone to the Committee on Expenditures and Supplies, and I did not know that the Committee on Rules had this matter under consideration. In view of what the Speaker of the last House (Shanahan) has said—and I know something about what he has done during the terms he has presided in the house in the way of economy—I am of the opinion that this resolution should be adopted without reference, and for that reason I ask that my vote which is now in the negative be changed to the affirmative.

Mr. SHANAHAN (Cook). I think it might be well to say to the Convention that Mr. Gale in offering this resolution should have made it clear that it was a report from the Committee on Rules.

(Roll call concluded).

THE PRESIDENT. On this question the "yeas" are 77 and the "nays" are 4; the resolution having received a majority of the delegates elected to the Convention is declared adopted.

Mr. REVELL (Cook). May I ask how the Secretary has my vote recorded?

THE SECRETARY. You are recorded as voting "no."

Mr. REVELL (Cook). I withdraw my objections, also my motion, and I want to be recorded as voting "aye."

THE PRESIDENT. It is so ordered.

The Chairman of the Committee on Expenditures and Supplies requests the President to say that he desires to meet the members of that committee in the President's room immediately after adjournment to take up this and other matters. It was the intention of the President and of the Rules Committee that some authorization should be made for the appointment of the employees of the Convention, as it was necessary to have a number of these employees at the disposal of the Convention within a few days. The President expects to take up those matters with the proper committee, and if any mistake has been made by the Convention in its adoption of this resolution, the Committee on Expenditures and Supplies by a supplemental report can correct such mistakes.

The Convention will now return to the order of introduction of proposals, and the Chair recognizes the gentleman from Mercer, Mr. Carlstrom.

Mr. CARLSTROM (Mercer). I have several proposals to present and I believe an explanation is due the Convention. I want to start out on the proper theory of procedure, and first of all I believe it is in the contemplation of the Convention to preserve as much as possible of the present Constitution. I realize that the Convention will not agree with all of the proposals submitted, but the basic purpose was that we might proceed to the consideration of those provisions of our present Constitution which we can retain. The reason for the fifteen proposals is this: That they are under the heads of each article so that they can be referred to the appropriate committee, and I am not seeking action on these proposals at this time, but I hope you will find these proposals of some benefit at the outset. These proposals may give us a groundwork into which we can fill and thereby expedite the work of this Convention. These proposals are offered with an honest purpose and I have had copies printed at my expense and trust each one will receive a copy when they come by express. They have been delayed en route. I will mail them out and ask that we take the sections recommended to be adopted and check them against the present Constitution and see if we cannot agree upon as many of them as possible. I desired to make this statement in my own behalf, and I thank you.

Whereupon proposals were introduced as follows:

Mr. CARLSTROM (Mercer). Proposals Nos. 2 to 20, inclusive.

Mr. DUNLAP (Champaign). Proposal No. 21.

Mr. BECKMAN (Cook). Proposals Nos. 22 and 23.

Mr. JARMAN (Schuyler). Proposals Nos. 24 to 28, inclusive.

THE PRESIDENT. If there are no further proposals to be submitted we will pass to the next order of business, which at this time is Motions and Resolutions.

Mr. JARMAN (Schuyler). I offer the following resolution and move its adoption:

RESOLUTION No. 9.

WHEREAS, The 12th day of February, 1920, is the anniversary of the birth of Abraham Lincoln; therefore, be it

Resolved, That this Convention commemorate said event on that day by appropriate exercises; and be it further

Resolved, That the President be and he is hereby authorized to make the necessary arrangements therefor.

(Resolution adopted).

THE PRESIDENT. I believe there is nothing to come up under the headings of "Unfinished Business" and "General Orders of the Day."

Mr. GREEN (Champaign). If there is no further business to come before the Convention, I believe it would be well to determine at this time upon the matter of adjournment. There should be a reasonable opportunity

given to the President to consider the committee appointments and, therefore, I move that when we adjourn that the adjournment be taken until next Tuesday morning at ten o'clock.

(Motion prevailed).

THE PRESIDENT. The President will state that yesterday after adjournment he made the request of the delegates that they hand to the President a statement of their preference for committee assignments, indicating at least four preferences and stating them in the order in which they preferred to be assigned to committees. The President has received requests from about one-half of the delegates. He would appreciate it if each and every delegate would hand to him his preferences before the delegates leave for their homes today.

The President would further state that the matter of making up the committees of this Convention, in order that the various delegates may be placed in positions where they can render the greatest service to the Convention is a very difficult task. It will require the President to have a personal interview with each delegate before the committees are made up and announced. To that end, it is the earnest desire and the earnest request of the President that each member take up with the President, personally, the matter of committee assignments, in order that the President may have information upon which to base his judgment in the assignments.

The President expects to be in Springfield from now until a week from next Saturday, spending Friday, Saturday and Sunday in Springfield and all of next week in order to meet the delegates.

Mr. BRENHOLT (Madison). I move that we now adjourn.

Motion prevailed and the Convention adjourned until Tuesday, January 20th, 1920 at 10 o'clock a. m.

TUESDAY, JANUARY 20, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President presiding.

Prayer by Rev. Doctor Browning, Pastor of the Harvard Park Baptist Church, Springfield, Illinois.

Whereupon the Secretary proceeded to read the Journal of the previous session of the Convention, and upon motion of Mr. Hamill (Cook) the reading of the Journal was dispensed with and it was ordered to stand approved.

Mr. WILSON (Cook). Mr President, I have a resolution to offer, if you please.

RESOLUTION No. 10.

Resolved, By the Convention that the President be, and he is hereby, authorized to appoint a competent person as official reporter to report and transcribe all the proceedings and debates occurring within the Convention hall, and, be it further

Resolved, That the compensation of such official reporter for such reporting and transcribing be at the rate of three hundred and fifty ($350.00) dollars per week.

THE PRESIDENT. The question is on the adoption of the resolution offered by the Committee on Expenditures and Supplies.

Mr. TRAUTMANN (St. Clair). Question of information, if you please.

THE PRESIDENT. Yes.

Mr. TRAUTMANN (St. Clair). Does that include the Committee of the Whole?

Mr. WILSON (Cook). It does.

(Resolution adopted).

THE SECRETARY. No reports of standing committees.

THE PRESIDENT. The introduction of proposals.

Whereupon, proposals were introduced as follows:

Mr. REVELL (Cook). Proposal No. 27.

Mr. NICHOLS (Ogle). Proposal No. 28.

Mr. REVELL (Cook). It seems to me that the proposals sent to the desk were formerly read, has there been a change in that order?

THE PRESIDENT. The understanding of the Chair is that as proposals are introduced they are read by title only, and then held on the desk of the President for one day when they will be offered for a full reading for the first time.

Mr. WHITMAN (Boone). Proposal No. 29.

Mr. STAHL (Stephenson). Proposal No. 30.

THE PRESIDENT. The Secretary calls the attention of the Chair to the fact that as proposals are coming into his desk the proposals are without title as required by the rules. The rules require that each proposal shall be single as to subject matter and shall have a title expressing the subject matter of the proposal. The reason for this rule is for the convenience of reference to a committee. A proposal having more than one subject matter is difficult of reference. The Chair would respectfully request the delegates as they send in proposals to observe the rule as to the title. It would greatly assist in the matter of reference.

Mr. MILLS (Macon). Proposals 31 to 35, inclusive.

Mr. CORLETT (Will). Proposals 36 and 37.

Mr. JARMAN (Schuyler). Proposals 38, 39 and 40.

Mr. CARLSTROM (Mercer). I have no Proposal to offer, but I desire to withdraw Proposals numbers 8, 16, 17 and 19. I call attention to the fact that Proposals number 8 is six and a half in the printed pamphlets; Proposal number 16 is thirteen and a half; Proposal number 17 is number 14 I think, it is to be separated to go to the proper committees, and the other two—the last is Proposal number 19, is marked inadvertently on the back, it was done when handed up, without knowing it.

THE PRESIDENT. Without objection the Proposals numbers 8, 16, 17 and 19 offered by the delegate from Mercer, Mr. Carlstrom, will be withdrawn and the Journal will so show. It is so ordered. Are there any further proposals? If not, we will pass to the first order of business, the first reading of proposals.

Whereupon, the Convention proceeded upon the order of business of first reading of proposals.

THE PRESIDENT. Second reading of proposals.

THE SECRETARY. There are none.

THE PRESIDENT. Motions and resolution? Any unfinished business? General orders of the day? Nothing further is on the Secretary's desk, so what is the further pleasure of the Convention.

Mr. CURTIS (Kankakee). I move the Convention do now adjourn.

Mr. TRAUTMANN (St. Clair). Second the motion.

THE PRESIDENT. It has been duly moved and seconded that the Convention do now adjourn.

Whereupon, an adjournment was taken until ten o'clock a. m., Wednesday, January 21, 1920.

WEDNESDAY, JANUARY 21, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President presiding.

Prayer by Rev. Ewing, Pastor of the First Methodist Church of Springfield.

The Journal of Tuesday, January 20, 1920, was being read, when on motion of Mr. Brenholt (Madison), the further reading of the same was dispensed with and it was ordered to stand approved.

THE PRESIDENT. On yesterday a resolution was offered by the Committee on Expenditures and Supplies which the Chair now thinks entails the expenditure of money and the Chair would like to have a roll call vote upon the proposition of the adoption of the resolution. The Secretary will kindly read the resolution now for the information of the delegates.

Mr. HULL (Cook). Before we vote on the resolution I think it would be in order to have an explanation by the chairman of the Committee on Expenditures and Supplies of the reasons for the resolution itself. I am not questioning the good judgment of the committee but I think resolutions which call for the expenditure of money should be explained before the vote is taken.

Mr. WILSON (Cook). This resolution, Mr. President and gentlemen of the Convention, provides for the employment of a reporter for this Convention to properly record and transcribe the debates of the Convention which will later be printed. It carries the sum of $350 a week for the reporter, $50 a day for seven days a week. That will cover the work of reporting everything that will take place in this room during the life of the Convention—the proceedings of the Convention and the Committee of the Whole.

Mr. DEYOUNG (Cook). When does the reporter begin to draw his pay?

Mr. WILSON (Cook). The pay starts when the Convention opened January 6th, and is for every day since then.

THE PRESIDENT. The Secretary will call the roll.

(Roll called).

THE PRESIDENT. On this question the yeas are 76 and the nays none; the resolution having received a vote of the majority of the delegates elected to this Convention is declared adopted.

The President presents to the Convention the petition of Robert Emmett Burke contesting the election of Delegates W. H. Beckman and Eugene H. Dupee. This petition will be received and ordered referred to the Committee on Qualification and Election of Delegates when appointed.

Mr. CRUDEN (Cook). I would like to present a petition from the Central Health Committee of the State of Illinois.

THE PRESIDENT. The petition will be received and referred to the Committee on Bill of Rights when appointed.

Mr. WILSON (Cook). I offer the following resolution and move its adoption:

RESOLUTION No. 11.

Resolved, By the Convention, that the President, with the approval of the Committee on Expenditures and Supplies, be and he is hereby authorized to incur and certify vouchers for the legitimate and necessary expenses for the following purposes:

Incidental and other expenses of committees.

Rent of typewriters.
Printing of Journal, hand books, calendars for the day and of Proposals.
Telephones and telegrams.
All necessary incidental expenses not specifically stated herein.
(Roll called).
Resolution adopted; yeas, 82; nays, none.

THE PRESIDENT. There are no special orders of the day, reports of standing committees or reports of select committees, and we will now proceed to the introduction of proposals.

Thereupon, introduction of proposals were as follows:

Mr. CRUDEN (Cook). Proposals numbers 41, 42 and 43.

Mr. DOVE (Shelby). Proposal number 44.

Mr. SMITH (JoDAVIESS). Proposal number 45.

Mr. CARLSTROM (Mercer). Proposals numbers 46, 47, 48 and 49.

Mr. SCANLAN (LaSalle). Proposals Nos. 50, 51 and 52.

Mr. CRUDEN (Cook). Proposals Nos. 53 and 54.

THE PRESIDENT. If there are no further proposals, which is the first reading of proposals and reference of same to the proper committees when appointed.

Thereupon the Secretary read the first time Proposals Nos. 27 to 41, both inclusive.

Mr. CARLSTROM (Mercer). I desire to offer the following resolution and speak upon it for a moment after it has been read:

RESOLUTION No. 12.

Resolved, That the Preamble and sections of the Constitution of 1870, recommended to be retained and adopted as a part of the Revised Constitution of 1920, of the State of Illinois, as set forth in the series of Proposals numbered 2 to 18 inclusive, excepting Proposals numbered 8, 16 and 17 and Proposals numbered 46, 47, 48 and 49 together with the amended sections designated and proposed to be amended by said resolutions be printed by and under the supervision of the Secretary, as proposed to be amended by said Proposals in skeleton form leaving space and numbers for sections not proposed to be so retained, and copies when so printed distributed to the delegates of this Convention. All added or substituted new words to be in italics, and all words stricken from the original text to be enclosed in brackets.

Mr. CARLSTROM (Mercer). This proposed resolution has been discussed somewhat by the members and some few delegates have agreed with me about it. I promised a friend of mine to be very brief as he wanted to catch the 11:50 and I want to take an early train myself.

It has been my earnest belief that we should start out with the idea of saving all we can of the old Constitution. I have reached this conclusion by discussing the matter with various members of the Convention. I have heard much talk about members being worried about what we are going to do with that part of our Constitution which is still needed. I don't think there could be a more salutary impression go out to the people of the State than that we are going to save all we can of the old Constitution.

There is nothing in this resolution that provides for the final adoption of any part of the Constitution or is there anything that conflicts with rule 19. It is merely supplementary thereto. It is my opinion that we should save the article and section numbers of the old Constitution as they have been referred to so many times by our Supreme Court in construing them. I think it is important that we retain the structure of the old Constitution. If we adopt this it would simply mean that we print in skeleton form those sections we propose to retain and leave spaces in between so we can proceed therefrom to fill in. If we can have this superstructure before us like the framework of a building and we could then put on the roof, put in the plumbing, the heating and then paint it, it will give us the ground work to work upon. I am in earnest on this proposition and I think many of

you agree with me. We should maintain the form and structure of the old Constitution as far as possible. I think when the people of Illinois feel that we are to retain all that is possible in the old Constitution it will inspire a spirit of confidence in our work.

I respectfully ask when this vote is taken that you act favorably upon it. I expected to have this work done at my own personal expense but I did not have time to attend to it. I think by doing this it will start us off well in the work of this Convention. It has been a pleasure to me to have been allowed to sit in this body and I want you to realize that I do not in any way put forward the thought that I have any panacea for the constitutional ills of Illinois, but I wish in my humble way to add to the results we shall produce. This is a good start. It is a matter of small expense to put this on our desks and let us consider it as a starting point. It does not bind the Convention to anything. We can change anything to make it conform to the new proposals and still save a great part of the old Constitution. I think even where language is inapt in the old Constitution but where it has been given construction by the courts, I think we should leave it alone.

Mr. HAMILL (Cook). As this involves the expenditure of money I move that it be referred to the Committee on Expenditures and Supplies.

(Motion adopted).

Mr. ROSENBERG (Cook). I offer the following resolution and move its adoption:

RESOLUTION No. 13.

Resolved, That following the prayer of the Chaplain on the opening of each session of this Constitutional Convention, the Secretary shall call the roll of the delegates, and that the names of all delegates present and those who may be absent shall be kept and recorded in the Official Journal of the Convention.

Mr. ROSENBERG (Cook). I offer the following petition to go along with the resolution.

THE PRESIDENT. The Secretary will read the petition for the information of the members.

THE SECRETARY. (Reading). Conformable to the rules and procedure governing this Convention, the undersigned delegates hereby respectfully request that a roll call of the delegates be had on the question of the adoption of the resolution offered by the delegate from Cook County (Rosenberg). Signed by Michael Rosenberg, George F. Lohman, William Ganschow, M. A. Michaelson, E. D. Potts.

Mr. CUTTING (Cook). I move that the resolution be referred to the Committee on Rules.

(Motion prevailed).

Mr. ROSENBERG (Cook). The petition that was sent up with the resolution, does that entitle me to a roll call?

THE PRESIDENT. You can have a roll call as provided under the rules but the petition did not call for any roll call and the motion of the gentleman from Cook (Cutting), was to refer to a committee.

Mr. ROSENBERG (Cook). Does the gentleman from Cook (Cutting), have to have a roll call?

THE PRESIDENT. There is no roll call required.

Mr. JARMAN (Schuyler). I offer the following resolution and move its adoption:

RESOLUTION No. 14.

Resolved, That hereafter the Convention dispense with the reading of the Journal, and that amendments thereto may be made on the legislative day following that on which the printed Journal is placed on the desks of the members.

THE PRESIDENT. That resolution will be referred to the Rules Committee.

Whereupon the Convention proceeded to the order of unfinished business and general orders of the day, all without debate.

THE PRESIDENT. If the Convention will indulge the President for just a moment, the President would state that he is devoting as much time as possible to the consideration of committee assignments. He has not as yet been able to complete the task. He has been considering the matter and has been since the adjournment of last week, conferring with the delegates relative to their preferences. The President feels that if an adjournment could be taken until next Wednesday morning that he could complete the task and have the committee assignments all made by that time and ready for the consideration of the Convention. The President would appreciate it, therefore, if he might have that time in order to complete this work. This work, when completed, will put the Convention in position to seriously consider, commencing Wednesday of next week, the proposals that may come before it.

Mr. GREEN (Champaign). I move that when we adjourn we adjourn until 10:00 o'clock next Wednesday morning, January 28.

(Motion prevailed).

Mr. HAMILL (Cook). I move that the Convention do now adjourn.

Motion prevailed and the Convention adjourned until Wednesday, January 28, 1920, at 10:00 o'clock a. m.

WEDNESDAY, JANUARY 28, 1920.

10:00 o'Clock A. M.

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. J. F. Robinson, Pastor First Methodist Church of Gilman, Illinois.

The Secretary was reading the Journal of the last session of the Convention, whereupon Mr. Trautmann (St. Clair) moved that the further reading of the Journal be dispensed with, and the same stand approved.

Mr. HULL (Cook). I wish to make a suggestion with reference to this motion: Until the Journal is on the table of the members, it seems to me that the order of approval ought not to be made. That is not said by way of criticising anybody. I think we might properly dispense with the reading of the Journal, but I believe the printed Journal should be on the desks of the members before the order of approval is entered, or in the box. I amend the motion by striking out the word "approved."

THE PRESIDENT. Is that an amendment to the motion?

Mr. HULL (Cook). That is an amendment to the motion.

(Amendment adopted).

(Motion as amended prevailed).

Mr. PADDOCK (Sangamon). I desire to ask leave of absence for my colleague, Mr. Conkling because of illness.

Mr. WALL (Pulaski). I desire to ask leave for my colleague, Mr. William J. Sneed, who has been summoned by the United States to appear as a witness before the coal mine industry at Washington, D. C. He has not been heard yet as a witness, and therefore is not able to be here, and I ask that he be excused.

Mr. O'BRIEN (Cook). I ask leave of absence for my colleague, Mr. Michael Rosenberg, who is at home seriously ill.

Mr. CLARKE (Lake). I ask leave of absence for my colleague, Dr. Whitman, on account of illness.

Mr. SMITH (JoDaviess). And I ask leave for my colleague, Mr. Stahl, on account of illness.

Mr. L. C. JOHNSON (Henry). I ask leave of absence for my colleague, Mr. W. A. Johnson, who is ill.

THE PRESIDENT. The Journal in each case will show that leave of absence is granted.

The President submits to the Convention the appointment of committees, and the Secretary will read the appoints.

Agriculture—Dunlap, Chairman; Warren, Stewart, Ireland, Shaw, Hollenbeck, Meinert, Gray, Tanner, Dove, Cruden, Whitman, Johnson (L. C.), Parker, and Gee.

Bill of Rights—Rinaker, Chairman; Wall, Morris, Carey, Corlett, Cooley, Dawes, Shuey, Davis, Revell, Scanlan, Quinn, Pincus, Elting, and Nichols.

Chicago and Cook County—Hull, Chairman; Wilson, Traeger, Mayer, Sutherland, Kunde, Woodward (Charles), Miller, Michal, Wall, Chew, Quinn, Clarke, Smith, and Carlstrom.

Corporations and Co-operative Associations—Fyke, Chairman; Dawes, Kunde, Michal, Baldwin, Rosenberg, Parker, Ireland, Todd, Brenholt, Elting, Beckman, Lohman, Granschow, and Warren.

County and Township Government—Smith, Chairman; Dove, McGuire, Lill, Taff, Hogan, Jarman, Gray, Nichols, O'Brien, and Granschow.

Distinction Between Constitutional and Legislative Subjects—Dietz, Chairman; Brewster, McEwen, Michaelson, Mack, Corlett, and Dwyer.

Education—Brandon, Chairman; Dunlap, Barr, Gray, Beckman, Iarussi, Corcoran, Rosenberg, and Carey.

Executive Department—Trautmann, Chairman; DeYoung, Cutting, Miller, Iarussi, Potts, Whitman, Brewster, Green, Gilbert, Hogan, Johnson (L. C.), Dietz, Tanner, and Six.

Future Amendments of the Constitution—Fifer, Chairman; Corlett, Revell, Moore, Gilbert, Hamill, Pincus, Shuey, Mighell, Wolff, and Torrance.

Industrial Affairs and Labor—Sneed, Chairman; Miller, Parker, Baldwin, Mighell, Fyke, Brenholt, Potts, Iarussi, Gorman, Carey, Frole, Shaw, Revell, and Michal.

Initiative, Referendum and Recall—Dove, Chairman; Kunde, Latchford, Wolff, Frole, Potts, Corcoran, Jack, Kerrick, McGuire, Carlstrom, Taff, Dupuy (G. A.), Mills, and Goodyear.

Judicial Department—DeYoung, Chairman; Cutting, Green, Mack, Conkling, McEwen, Mayor, Dupuy (G. A.), Gorman, Gee, Dryer, Goodyear, Garrett, Pearce, and Todd.

Legislative Department—Curtis, Chairman; Shanahan, Fifer, Rinaker, Mighell, Quinn, Lindly, Dunlap, Hull, Morris, Traeger, Latchford, Baldwin, Paddock, and Stahl.

Military Affairs—Beckman, Chairman; Tanner, Meinert, Davis, Hollenbeck, Moore, Nichols, Coolley, and Cruden.

Miscellaneous Subjects—O'Brien, Chairman; Coolley, Lohman, Michaelson, Meinert, Lill, Pincus, Brandon, Paddock, Johnson (W. A.), and Hollenbeck.

Municipal Government—Garrett, Chairman; Stahl, Brandon, Calstrom, Gee, Jarman, Scanlan, Chew, Woodward (Charles), Johnson (W. A.), Hogan, Lill, Jack, Michaelson, and Corcoran.

Phraseology and Style—Hamill, Chairman; Rinaker, Moore, Dupee (E. H.), Torrance, Clarke, and Barr.

Public Works and Improvements—Lindly, Chairman; Scanlan, Ireland, Wilson, Chew, Johnson (L. C.), Stewart, Ganschow, and Jarman.

Qualifications and Election of Delegates—Wolff, Chairman; Woodward (Charles), Mayer, Shaw, McEwen, Rosenberg, Fifer, Gale, and Pearce.

Revenue, Taxation and Finance—Gale, Chairman; Whitman, Sutherland, Dawes, Sneed, Dupee (E. H.), Kerrick, Warren, Barr, Johnson (W. A.), Brenholt, Fkye, Shuey, Davis, and O'Brien.

Schedule—Dupuy (G. A.), Chairman; Elting, Gorman, Mills, Morris, Curtis, and Trautmann.

Suffrage—Cruden, Chairman; Traeger, Frole, Todd, Stewart, Six, Mills, McGuire, and Lohman.

THE PRESIDENT. The next will be a report of the standing Committees. The Committee on Rules and Procedure submits its report for the consideration of the Convention.

COMMITTEE REPORT.

Your Committee on Rules and Procedure respectfully report that in accord with rule 19 they have prepared a list designating the parts of the Constitution to be referred to each committee, and in accordance therewith respectfully report that the provisions of the Constitution of 1870 shall stand referred to the several standing committees of this Convention as follows:

The preamble and Article II to the Committee on Bill of Rights.

Article I to the Miscellaneous Committee.

Article III, section 26 of Article IV and Article VI to the Committee on Judicial Department.

Article IV, except sections 26, 29 and 34 to the Committee on Legislative Department.

Article V and section 13 of Article X to the Committee on Executive Department.

Article VII to the Committee on Suffrage.

Article VIII to the Committee on Education.

Article IX to the Committee on Revenue, Taxation and Finance.

Section 34 of Article IV and section 7 of Article X to the Committee on Chicago and Cook County.

Section 29 of Article IV and separate section No. 4, relating to convict labor to the Committee on Industrial Affairs and Labor.

Article X except sections 7 and 13 to the Committee on County and Township Government.

Article XI except section 4 and separate section No. 1 regarding the Illinois Central Railroad to the Committee on Corporations and Co-operative Associations.

Section 4 of Article XI and separate section No. 2, relating to municipal subscriptions to the Committee on Municipal Government.

Article XII to the Committee on Military Affairs.

Article XIII to the Committee on Distinction between Constitutional and Legislative Subjects.

Article XIV to the Committee on Future Amendment of the Constitution.

Separate section No. 3, relating to canals, to the Committee on Public Works and Improvements.

Sections 1 to 7 and 13 to 26, inclusive, of the schedule to the Committee on Schedule.

Section 8 to 12, inclusive, of the Schedule to the Committee on Submission and Address.

The report of the Committee on Rules and Procedure adopted.

THE PRESIDENT. The President as ex-officio chairman of the Committee on Rules and Procedure submits the further report of that committee.

COMMITTEE REPORT.

The Committee on Rules and Procedure, at the request of the President, who, by resolution, was directed to perfect plans for the celebration of the birthday of Abraham Lincoln, report to the Convention for approval that exercises appropriate to this occasion be made a special order of business at eleven o'clock in the forenoon on Thursday, Februrary 12th; that the program suggested by the President in furtherance of the spirit of said resolution be held in this Convention hall pursuant to this special rule; and that a committee of five be appointed by the President to assist him in carrying out the program and plans for these ceremonies.

The question being on the adoption of the report of the committee. It was decided in the affirmative.

(Reported adopted).

THE PRESIDENT. Pursuant to the resolution of the report of the committee on rules and procedure, just adopted, the Chair appoints on the Committee, Delegate Jarman, Chairman, Delegates Brenholt, Michaelson, Dove and Latchford.

Whereupon the Convention proceeded upon the order of introduction of proposals.

Mr. LINDLY (Bond). I suggest and move that when we reach the order of introduction of proposals that the Secretary call the roll, so that each member can answer when his name is called, which prevents confusion.

Mr. GALE (Knox). I rise to a point of order. The proposal of the delegate is a modification of the rules and as such under the rules require one day's notice and a vote of two-thirds of the Convention.

Mr. WALL (Pulaski). Majority of the Convention.

Mr. SUTHERLAND (Cook). If I recall the rule correctly, it provides that a majority may change the rules, if the change is recommended by the Committee on Rules and Procedure.

Mr. LINDLY (Bond). Now, I ask the gentleman on the Committee on Rules and Procedure whether it designates how, when it reaches the order of business for proposals, does it say that the roll shall not be called?

Mr. GALE (Knox). It doesn't say, but it provides for a roll call in certain instances, but not in the instance suggested, and therefore it seems to me that introducing a rule which requires a roll call is a modification of the rules as at present adopted by the Convention, and there is nothing in the rules specifying or regarding the point suggested.

Mr. LINDLY (Bond). Mr. President, I think that the delegate is entirely wrong in his point of order. This is not the roll call for the yeas and nays, but wherever in the rules it calls for the roll call, it refers to the yeas and nays, and it could not apply to this motion because this is simply a call of the roll for the purpose of introducing proposals and does not conflict in my judgment with the rules any place, but it is simply in order to speedily dispose of the introduction of the proposals. I ask the rule of the Chair upon the point of order.

THE PRESIDENT. Upon that point of order the Chair is disposed to rule that the point of order is well taken.

Mr. DUNLAP (Champaign). On this question just ruled on, it shall not be in order for a delegate to make a motion that the delegate from Bond (Lindly) made, so far as the procedure of any one ssession is concerned.

Now, on Tuesday morning, the first week we are liable to have a good many proposals introduced, and for the purpose of considering that order of business when it is reached any motion on the floor would be in order, so far as that particular occasion was concerned. I think the President is right so far as the rule is concerned. I would like to hear what the Chair has to say on that; it would be in order to make a motion on a certain day when the order is reached.

THE PRESIDENT. If I understand the delegate from Champaign (Dunlap) correctly, it presents the same question as that of the delegate from Bond (Lindly).

Mr. DUNLAP (Champaign). It is simply a motion for the immediate consideration of the proceedings of the house.

THE PRESIDENT. That is the way the Chair understands it.

Whereupon the Convention proceeded upon the order of the first reading of proposals; second reading of proposals; motions and resolutions; unfinished business; general orders of the day, all without debate.

Mr. SUTHERLAND (Cook). There are present in Springfield today certain distinguished gentlemen from the City of Chicago, representing the City Council and the city government in part, and I move that the Convention now resolve itself into a Committee of the Whole for the purpose of considering Proposal number 41, offered by the delegate from Cook, Mr. Cruden, and for the purpose of hearing from these gentlemen from Chicago in reference to that proposal.

Mr. BALDWIN (Cook). The City of Chicago proposals that were introduced this morning, the members of this Convention have not had an opportunity to familiarize themselves with those proposals. I am interested in the City of Chicago. I move, Mr. President, until the members of this Convention have had an opportunity to familiarize themselves with the Chicago proposals that the motion of the gentleman from Cook County (Sutherland) lie on the table.

Mr. SUTHERLAND (Cook). Mr. President, I would like to ask the gentleman to withhold the motion to table one moment until I make further explanation as I understand that motion is not debatable. Will you kindly withhold that motion for a moment.

Mr. BALDWIN (Cook). Leave granted.

Mr. SUTHERLAND (Cook). This going into the Committee of the Whole for the purpose of hearing the delegation from Cook County with reference to this proposal does not bind the committee as a whole to action, nor does it bind the Convention to action. It is necessary that we make a start in the work of this Convention at some time. The members should not be in the dark as to a preliminary idea of what this proposal contains.

I have received, and I presume every delegate in the Convention received at his home before leaving for Springfield this week a copy of this proposal printed and issued by the City Council of Chicago. Additional copies have now been placed on the desks by the pages. This meeting of the Committee of the Whole for the purpose of listening to the gentlemen from Chicago will simply be for the purpose of giving us a start. It will save them the trouble of coming down en masse to give us a general idea of what they are asking for, and it will enable the Committee on Chicago and Cook County, which will undertake the detailed work of modifying or approving this proposal something concrete to work upon. I think, Mr. President, it is time that this Convention was making a start, especially with reference to a problem that is liable to be as vexing as any other problem that will come before the Convention, and I hope that the motion to go into a Committee of the Whole might prevail

Mr. BALDWIN (Cook). I think the Convention should wait until after they have familiarized themselves with the different proposals from the City of Chicago, and I renew my motion to table.

(Motion to table lost.)

Motion that the Convention go into a Committee of the Whole prevailed.

THE PRESIDENT. Mr. Hull, Chairman of the Committee on Chicago and Cook County is designated to act as Chairman of the Committee of the Whole.

CHAIRMAN HULL. The members of the City Council who are here are requested to come down front where they can be heard and seen as they are called upon. The committee was called to order for the purpose of considering the proposals with reference to Home Rule that has been introduced by Delegate Cruden (Cook). I am requested by Mr. Lyle, who is chairman of the Council Committee, to call certain aldermen in order, and also call Professor Freund, and also a chairman of the committee of the City of Chicago with whom this proposal originates.

Mr. JOHN H. LYLE (City of Chicago). Mr. Chairman, and gentlemen: We appreciate the courtesy which you extend to us to come here with a program which we have prepared after some five months of hard labor. We looked about to secure the ablest assistance we could in the matter of preparing our program. We scoured around to get legal counsel to help us formulate what we knew we wanted and sent letters asking volunteers to help us, and we received some replies and some considerable assistance. We sent a letter to one very eminent gentleman who is known perhaps to many as one of the ablest lawyers in the United States, and we had in mind that he would be of assistance to us because it so happened he had loaned the City of Chicago some three millions of dollars, I believe the year before, but we found that this gentleman whom we thought knew so much about the city was so busy trying to save the life of an eminent gentleman of the United States that we could not get hold of him, and the next thing we learned he was down here as a delegate and we will expect him to do his duty. Professor Freund of the University of Chicago assisted us greatly. Mr. Hornstein of the Corporation Counsel's office made many suggestions in our program. We are in dire need of your assistance. Professor Freund is here and Mr. Richert and Mr. Hornstein and they will make the principal statement as to our needs and requirements. Chicago's need and growth is no new story. In 1870 the City of Chicago, as I read the record of the time then, did not take notice of the Constitutional Convention actively in reference to drafting legislation for the City of Chicago until the Convention had been in session many weeks, and then they found the Convention was drafting legislation that affected the City of Chicago, and they sent down a committee, and I had hoped that we would have with our committee today a gentleman who was a member of the delegation of fifty years ago. He is still in the Council today, and I hoped he would be here in order that you might see him. The Constitution then drafted fitted the time. Today we are here with a program and we ask you to listen to Professor Ernst Freund, who has assisted us, and he will be glad, as will the others in turn to render any information that they can to you in the requests which we make. I think the pages have placed on your desk copies of the proposal,

and I would like to say that that is the proposal and not the tentative proposal, because we made the City Council a tentative proposal some several weeks ago and then sent out notices to various organizations asking them for recommendations and it is this last proposal we want you to consider, and it has a letter addressed to your Honorable body. Mr. Chairman, I ask that you call on Professor Ernst Freund of the University of Chicago, who is known to many of you as one of the constitutional experts of the United States, and I don't say that by way of exaggeration. He is an author and an authority on this subject and will speak to you and answer any questions that you might have to suggest.

CHAIRMAN HULL. Is Professor Freund here?

(Professor Freund addressed the committee as follows:)

PROFESSOR FREUND. Mr. Chairman and gentlemen of the Convention: When the committee of the city council of which Alderman Lyle is chairman undertook to formulate proposals to be submitted to the Convention concerning the future status of the City of Chicago under the Constitution of Illinois, the first thought was whether it would be possible to cooperate with other municipalities of the State and the chairman took steps to place himself in communication with other municipalities. However, the time was short and the connection desired could not be established as quickly as might have been desirable, and consequently we went ahead withour work, and are submitting to you now proposals which in their form apply to the City of Chicago alone. They are, however, so framed that they can easily be adapted and be applied to other cities of the State. Of course this committee had no right to commit the other cities to propositions with regard to which they were not consulted. It is hoped that by consultation and deliberation with other municipalities these proposals or at least some of them may, if desired by the other cities, be made State-wide. There are, of course, certain proposals applying only to a great metropolitan community like Chicago.

Any program in order to be consistent and workable must be based on a definite theory and the theory which underlies our program is home rule.

What does it mean when we speak of constitutional home rule? It means in the first place that the city which at the present time is entirely regulated by statute will from now on have a place in the Constitution. It may be asked could not everything in the way of home rule be secured as well by statutory enactment? That is a fair question. A great many things which are in the Constitution of Illinois could also be done by statute. Some time ago I happened to examine the various Constitutions of Illinois under which we have lived, the Constitutions of 1818, 1848 and 1870 and I came to the conclusion that at the present time we could more easily live under the Constitution of 1818 than make any other. Make two changes in the Constitution of 1818 and it is a perfectly workable instrument, and the reason is that it did not undertake to do more than outline the rudiments of governmental organization of the State. Since 1818 there has been a constant enlargement. The Constitution of 1848 provided for things not in the earlier Constitution, and the Constitution of 1870 placed still more matter for regulation, and I think it is true that a great deal of the difficulty that has arisen was not the unwisdom of the framers of the Constitution of 1870, but simply that any policy you place in a Constitution after a generation or so will be found unsuitable for the changed times.

You will notice that the Constitutions of 1848 and 1870 give a place in the framework of the government, in the organic law, to the county. The county is only an agent of the State government, and has few, if any interests of its own. The city is a community which has interest distinct from the State, and attends to its own local affairs. Therefore if the county has legitimately a place in the Constitution, that is still more true of the city, and there is very little doubt that cities will seek their place in the organic law. That may be regarded as a foregone conclusion. The drift in this country has been unmistakable for the last 20 to 25 years. One state after another has come to recognize the status of the city as proper to be recognized by the Constitution and placed on a secure and firm basis.

If the Constitution is to recognize city government and in some manner to outline it, it is inevitable that the old policy of dealing with city government should be abandoned. The old policy was the policy of enumerating by statute the powers in detail that the city was to be allowed to exercise. That was one of the methods by which the State held the city under control, saying we will give you this and we will withhold that, and we believe that we can judge what you need. It is impossible for the State Legislature to forsee all the needs of a city, and the consequence is that constantly there will arise a demand for new powers, and taking the time of the Legislature which had better be given to other problems, and creating irritation and annoyance because of the fact that the city lives in a strait jacket and cannot do what it wants to do.

Once you put the city powers in the Constitution, it is quite inevitable that the old system will be abandoned, and you will have the granting of large powers in general terms, the terms chosen in this paragraph, local government, corporate powers, municipal purposes. These terms are wide; but you get powers that are subordinate, you can safely choose wide and indefinite terms, to a certain extent; the danger of those terms is, they may be construed with undue narrowness by the courts, and for that reason you find the clause by which the courts are directed to give to those words a liberal construction, and the old principle of enumeration of powers is to be discarded so far as the operation of this charter is concerned.

What is meant by local government? The term must be understood in the light of what constitutes part of the unwritten constitution of every state in the Union, according to which the locality has always been excluded from the power of dealing with certain subject matters, and no city in this country has ever been given the power of legislating in regard to matters of property rights, family law, marriage and divorce, trusts, conveyances, contracts, all these things are outside of local government, and when you give the City of Chicago powers of local government even in that wide and indefinite way, you are quite safe, and you do not hamper the legitimate and exclusive power of the State to deal with matters of that kind. On the other hand, so far as conditions of government and governmental powers arising out of the aggregation, out of a large number of people of relatively limited territory, so far as local police power is concerned, so far as we deal with problems of expenditure of public funds for the purpose of municipal institutions, and so forth, all that is legitimately a matter of local government, and those powers ought to be exercised by the city so far as there was no conflict with State interests. That is what is meant by local self government, and that is what the City of Chicago asks for.

However, while it is quite true that there is a sphere of State government which is quite distinct from the sphere of local government, the opposite is not true. That is to say, it is very difficult to conceive of powers of local government, local police powers, that must not in some way or another run counter to State interests or that can be sharply differentiated from interests of the State. Consider, for instance, the claim that the city should have full control of its local utilities, and when you examine that you will find it involves questions of labor; for instance, of the women employed in the transportation companies, carrying passengers. In 1909 the legislature passed a ten hour law for women, which was applied to public utility companies and transportation companies; there was no question that it was a legitimate interest for the State to look after and it would not have been contended the City of Chicago should be free from State control in that respect. Take any subject of local interest primarily, and you will find in some aspect of it it may touch state-wide interests. As a consequence, it is a wise and sound policy to make the powers of local government which the City of Chicago is to exercise as a matter of principle, subject to State law.

What does that mean, subject to State law? It means, so far as I can see, that wherever the State legislates in such a manner as to establish certain standards of a positive or prohibitive character, that the city must not

run counter to those standards, but that the city shall be at liberty to add to the State standards where there is no direct or positive conflict.

Take such a matter as that of the control of the milk supply, of first class importance in the general system of sanitation and health of the people, in which to a certain extent State standards are apt to be different from city standards. Where the State establishes a standard of inspection, it should not be permitted to the city to go below that standard, but there is no reason why the city should not go above that standard in the absence of a specific and positive State law that prohibits the city from going above that standard.

We have here a perfectly simple and workable arrangement between the city and State, according to which the city is to have power of local government in the first instance, powers that are not defined except by the nature of local government, but by which the city powers are to recognize the great principle of State supremacy, because after all it is true that we live here in one community, and there must be one supreme law in case of conflicting interests. It has been suggested by advocates of home rule, that the whole scheme ought to be gone at in a different way, and that we ought to have specified wherein the city powers are subordinate, and in what respects the State powers are exclusive and supreme. They called that the Federal principle. But I think we ought to be agreed, and I feel very strongly personally, that the relation of the city to the State is not the relation of the State to the United States. We have in this State the benefit of united action, and we do not want to burden ourselves with the problem of conflict between coordinate and mutually exclusive powers such as we have between the State and the United States. So far as I can read the tendency of constitutional arrangement in Federal government, the whole tendency is to give, even in a federation powers concurrent and subject to national supremacy.

And thus we are asking for local autonomy subject to State supremacy.

There is, however, one field in which State legislation may tend to unduly hamper the exercise of city autonomy. Formerly the Legislature acted directly, where it did act; there was no particular danger that it would interfere with the city of Chicago especially. In recent years we have come to the practice of legislation whereby the will of the State is not fully expressed in the State law, but the State law is left to administration by commissions appointed by the State. Administrative interference is much more to be feared in local affairs than legislative interference and the city finds a competitor with its legitimate powers which in the past did not exist. You will find in this program that city control over the rates and services of public utilities is made exclusive. That is a concession to home rule with regard to which there may be a difference of opinion. The principle of local independence should be applied especially to the right of the city to organize its own government. A sharp distinction should be made between powers and organization. With regard to powers, you can never be sure that there may not be a conflict between State interests and local interests. But when once the State has declared its willingness that a power should be exercised by the city, why should not the city be entitled to determine the instrumentalities of that exercise? A large city like Chicago with a population of a great State ought to be permitted to choose the form of its government; subject to the essentials which the Constitution lays down. Therefore, we submit the proposition that the City of Chicago, in matters relating to organization, shall have power to supersede State laws by its charter and ordinance provisions. Under such power the city may establish a commission form of government and initiative and referendum; it may determine the Constitution of its council, and apply to it, if it so desires, the principle of proportional representation. Not all these things may suit everyone's notion of what is the best form of city government, but they are things which a great city may be left to determine for itself, and which the State should neither force upon, nor withhold from the city against its will. The interest of the State in the organization of local government for local mat-

ters is not a vital interest, therefore the city requests that it may be allowed to order its own affairs in its own house. These are the four corner stones of the city's charter that we have been trying to build up and present here: the constitutional status of the city, the recognition of the general principle of self government, the recognition of the principle of State supremacy and local independence in carefully defined and circumscribed fields. In broad outline that is the scheme we present to you. You find in addition certain matters of great importance that are especially dealt with and these matters relate particularly to finance. It may be asked, could not the city plead with regard to finance for the same power that it does claim with regard to organization? Is there any possible conflict between State finance and city finance? I believe there is. I believe the revenue producing capacity of a certain community is limited, and that if one community has the power to pre-empt as much as it pleases of the revenue of the community it may seriously embarrass the other communities. Such conflict may easily arise between the United States and the State of Illinois, or between any other two or more coordinate jurisdictions.

That could not happen if one jurisdiction controlled the power of revenue, and as between the city and the State the State must have the supreme power. But the city should have power to determine its revenue in the first instance. If the State law were silent, the city should have the power to put a license tax on restaurants; then the State, if it so desired, could forbid that particular tax.

CHAIRMAN HULL. What is that, Professor?

PROFESSOR FREUND. Putting a license tax on restaurants. Of course, when it comes to income taxes the State will not be silent. It will be a question how far the city may go in placing an additional burden on incomes. In the continental countries of Europe the state levies a certain amount of income tax and the city levies an additional tax and that addition is usually very much more, sometimes five times as much as the state taxes, but the state must have the control over that.

Mr. MAYER (Cook). You would give the City of Chicago power to levy income taxes in addition to the State?

PROFESSOR FREUND. I think that should be so.

Mr. MAYER (Cook). Give both the city and the State, give them cumulative powers in addition to the government without restriction?

PROFESSOR FREUND. The restriction is subject to State law.

Mr. MAYER (Cook). There is no limitation?

PROFESSOR FREUND. If there is no limitation that means the State has failed to work out its policy.

Mr. MAYER (Cook). Suppose the city was given power to levy income taxes, no matter from what source derived, that general power was given in the new Constitution of Illinois. Then it would be your idea that the City of Chicago should have similar power?

PROFESSOR FREUND. If the State does not desire to take it away. The State should simply pass a law that the income tax of the State should be exclusive.

Mr. MAYER (Cook). Well, in the absence of that?

PROFESSOR FREUND. I think the city would have that power.

Mr. MAYER (Cook). Without restriction?

PROFESSOR FREUND. Without restriction. That may sound extreme, of course.

CHAIRMAN HULL. That is subject to the control of the State?

PROFESSOR FREUND. Entirely within the control of the State. Of course, if you say nothing at all it may sound extreme, but if the State does not want it done the State simply needs to say that the income tax should be a State tax.

Mr. MAYER (Cook). Suppose that the new Constitution gives the legislature of Illinois the power to levy income tax, using the short terse language of the 16th amendment. Is it your idea that the City of Chicago

should have the power to levy an income tax if the legislature of Illinois does not say it is an unlimited income tax?

PROFESSOR FREUND. If the question is put that way I would say yes, but I would like to give that article a little more consideration. If it left the matter entirely in the dark then I should think the State ought to make it clearer.

Mr. MAYER (Cook). You are here to advise us what you think ought to be done. Suppose the general power is given the State to levy income taxes, according to the language of the 16th amendment. Then what should you say should go into the charter of the City of Chicago on that subject?

PROFESSOR FREUND. Personally I think that the City of Chicago should be given a general power of taxation; if not you go back to the principle that the State should enumerate every source of revenue.

Mr. MAYER (Cook). Suppose the legislature does levy an income tax, do you design that the City of Chicago should have a similar concurrent power?

PROFESSOR FREUND. It is not a question of whether I desire it.

Mr. MAYER (Cook). Do you design it, you think that the City of Chicago, that the Chicago Council could do the same thing?

PROFESSOR FREUND. Yes.

Mr. MILLER (Cook). You would give the City of Chicago unlimited power to levy an income tax subject, however, to limitation, that the legislature may see fit to put on it, and insofar as it puts no limitation on it it is unlimited?

PROFESSOR FREUND. If that is clearly understood there can be no difficulty about it because the legislature will not legislate blindly. The only point is to make clear what you want, and give the State power to control it, and then you know where you are. What we want to avoid is obscurity and doubt.

Mr. MAYER (Cook). I may be on the committee, I did not know what committees I would be on until I got here because I have had no communication with the Chairman as to where he intended to put me, and I am asking you for guidance. Suppose that the new Constitution of Illinois has given the power that is now given by the 16th amendment to the Federal Congress?

PROFESSOR FREUND. To the State?

Mr. MAYER (Cook). The same power to be given to the legislature of Illinois under the new Constitution is given by the 16th amendment to the Federal legislature. There is no limitation there. Congress can make an income tax of two, ten, sixty or eighty per cent. Now, do you design that the charter of the City of Chicago under the new Constitution shall give the City Council a like power?

PROFESSOR FREUND. If I have to answer the question yes or no, I should say yes. If you ask me how the thing might be construed, I have to speak subject to a different possible construction, but my own construction as it stands now would be decidedly yes.

Mr. MAYER (Cook). So we seem to be confronted with this situation; the new Constitution gives the legislature of Illinois the power to levy income taxes without restriction. The new charter of the City of Chicago gives the City Council of Chicago or the legislative body of Chicago the same unlimited power; the Federal Government now has the same power under the 16th amendment. Suppose the legislature of Illinois should enact that the incomes exceeding 2,000 or 5 or 6 shall pay 20 per cent and the City of Chicago under the charter that you are now discussing also will have a 20 per cent income tax?

PROFFESSOR FREUND. If the legislature deems it wise to leave that power to the city, yes, not otherwise.

Mr. MAYER (Cook). Suppose the legislature of Illinois should say, we don't care what the City Council of Chicago does to the inhabitants of Chicago; then the City Council might desire to enact that a 20 per cent income tax be paid, and the legislature of Illinois can also enact that a 20 per cent income tax shall be paid; such a situation would be possible, would it not?

PROFESSOR FREUND. Yes, of course.

Mr. MAYER (Cook). Then, we might have a case similar to the Astor incident that you illustrated of the State legislature exacting a 20 or 25 per cent. tax, the City of Chicago exacting a similiar income tax and the Federal Government also enacting a similar or larger income tax.

PROFESSOR FREUND. Quite right. Of course that is implied in the idea of self government. You may not desire to trust the people of the City of Chicago with that power.

Mr. MAYER (Cook). It is not a question of trusting the City of Chicago with that power.

Mr. MILLER (Cook). You said a few minutes ago if certain language that you used was observed there would be no difficulty about it. Difficulty for whom did you refer?

PROFESSSOR FRUEND. To the legislature of the State.

Mr. MILLER (Cook). Not for the tax payers.

PROFESSOR FREUND. Take any plan of home rule and you will encounter that kind of a problem. I am very glad indeed, that the delegate from Chicago (Mayer), has raised that question because we ought to be perfectly clear on what is proposed to be done, and if that sounds extreme it may be desirable to put in the clause of local home rule a specific limitation regarding the income tax law.. You will find with regard to the general property tax that something of that kind is done, and I regard it as perfectly legitimate that the same thing is done with regard to every other tax. Let me refer to article 13-3: "The City of Chicago may fix the limit of the annual tax rate on real or personal property in excess of the limit prescribed by law with the approval of the Governor to be given or withheld only upon taking into consideration the recommendation of the State Tax Commission." Of course, it was impossible in this plan of constitutional home rule to anticipate all the things that may be done in the new Constitution if an income tax is introduced in Illinois, it would be eminently proper to amend this paragraph 13-3; I could not conceive that it would not be done, and provide likewise that the limit of the tax rate for incomes should be fixed with the approval of the Governor to be given after hearing from the State Tax Commission. This method is rather novel; substituting for the safe-guard of rigid limitations the safe-guard of an administrative check; instead of having a permanent tax rate limit for the City of Chicago, we make the tax limit subject to the approval from time to time of the State Governor, the Governor not to act until after taking the advice of a body of experts. That seems a wiser and more conservative scheme than the scheme of rigid limitation, and that you see is provided for. My notion is, and of course I cannot speak except for my own person, that if the Constitutional Convention sees fit to introduce an income tax, the principle would be the same as in case of a property tax; and if so it would be eminently proper to have maximum rates.

Mr. DAVIS (Cook). I understand you then, that so far as the local tax rate is concerned, that that should be left to the City Council.

PROFESSOR FREUND. Yes. I proceed to 13-1: "The General Assembly may vest the corporate authorities of the City of Chicago with the power to make local improvements by special assessment, or by special taxation of contiguous property, or otherwise." These words are taken from the Constitution of 1870, because prior to 1870 the Supreme Court of Illinois had expressed doubt as to whether on general constitutional principles the power to impose special assessment and special taxes was admissible in Illinois. It was deemed necessary in 1870 to have a positive authorization, and I thought it unwise to eliminate that authorization which the Supreme Court thought essential to the existence of the power.

The question has been asked, should not power be given to the City of Chicago to enact a local home law entirely upon its own authority, and the answer was yes.

Mr. DAVIS (Cook). Is it a fact that your personal tax becomes a lien on personal property?

PROFESSOR FREUND. Yes, and we depend on the State law for that. The real property tax is a lien on real property.

Mr. DAVIS (Cook). Is it in this document?

PROFESSOR FREUND. You could not do that without the authority of the State law. That was fully explained to the committee. You could not have liens on property without the authorization of tax laws of the State legislature.

Mr. DAVIS (Cook). It seems to me that number 2 does not conform to the statement you just made?

PROFESSOR FREUND. Pardon me: "The General Assembly shall not limit the annual general tax on real or personal property by reference to the rate of taxation imposed by other authorities exercising powers of taxation over property in the City of Chicago, and any such limit now existing shall become inoperative." That refers to other taxing bodies; the object of this provision, and which was inserted at the request of the Finance Committee of the City of Chicago was to do away with the Juul law, if that law limits the city tax rate by the rate of other taxing authorities, if one goes up the other automatically goes down. That seems unfortunate and has proved a source of very considerable embarrassment. The city has the right to be treated on its own merits and should not be confronted with the situation that other taxing bodies go to the legislature and have their taxes raised and then have the city taxes go down. I was persuaded of the fairness and the justice of the abrogation of this particular power, but that is a very specific inhibition upon State legislation and has nothing to do with the general power of the State over taxation, and the general necessity of State laws to make city taxation operative and effective.

Mr. O'BRIEN (Cook). What disposition would you make of the other tax rate, if you take the Juul law out? How would you compute the tax rate, or to make the City of Chicago rate, the Sanitary District, School districts and so forth?

PROFESSOR FREUND. The answer is given by number 3. The city maximum tax rate must be fixed by ordinance, and that maximum limit will be subject to the careful examination of the State Tax Commission, a body of experts, and also to the approval of the Governor.

Mr. O'BRIEN (Cook). Why should the Governor have a superior knowledge?

PROFESSOR FREUND. He acts upon the advice of a body of experts.

Mr. O'BRIEN (Cook). If you remove the City of Chicago tax rate from the Juul law, instead of a reduction of 59 per cent on the other rates, subject to reduction, you will get about a 40 per cent reduction on those rates.

PROFESSOR FREUND. I am not an expert on this matter, and I embodied in this particular provision the desires of those who were quite familiar with the situation, and I simply acted as a draftsman.

Mr. O'BRIEN (Cook). Has not the tax commission a sufficient power to raise valuations sufficiently to meet the wants of Chicago even at the prevailing rates?

PROFESSOR FREUND. I do not understand the present commission has the power, it simply acts as a Board of Equalization, I believe. But I have to look further into the matter before I can answer that question.

Mr. GALE (Knox). If I am permitted, may I ask this question: In view of a possible income tax being passed under the new Constitution, would this proposed charter permit the City of Chicago to levy a tax upon incomes derived in the City of Chicago upon persons living outside?

PROFESSOR FREUND. It is not so easy to answer that question on the spur of the moment, and I can only give you my off-hand impression, if you will not hold me to it too rigidly. Income taxation means that residents of the city can be taxed upon their income, only residents can be taxed in that way, otherwise it becomes a tax upon property. I can hardly conceive that so important a matter as income taxation should be left at loose ends.

There is one other point in the matter of taxation that you will find

I have specified, and that is that the city is to be safe-guarded from interference with its taxing power by the General Assembly upon principles laid down in the present Constitution, which says in substance that the General Assembly shall not tax the city for corporate purposes. There is also a provision that no new municipal corporations with taxing power shall be created within the City of Chicago without the city's consent, and also that if burdensome obligations are placed by the legislature on the city requiring additional revenue, then an additional tax rate may be levied and be computed according to the additional expenses so as to prevent the city from being over-burdened.

I now come to the bonding provisions which are not very different from those existing at present. The aggregate limit of the bonded indebtedness is to be fixed like the tax limit with the consent of the State authorities. Every bond issue has to go to a referendum, which is in accordance with the present practice. And there is a new provision. If the City of Chicago should decide to take over the operation or ownership of public utilities, it is to be enabled to finance these utilities by issuing public utility certificates, that will be outside the city's aggregate indebtedness. If the city wants to raise 100 millions for the financing of a subway, it may borrow 50 million upon its corporate credit and that 50 million must be within the limit of aggregate indebtedness, and the other 50 million may be secured by certificates which shall be solely a lien upon that particular property, and need not be within the limit.

Mr. PINCUS (Cook). Professor, I would like to ask this question: I am a resident of Chicago, we will suppose with an income bringing in $100,000; the City of Chicago levies a tax of 20 per cent, and the State a tax of 20 per cent; after the first year I move out of the city limits; will I still be liable for the tax?

PROFESSOR FREUND. Not if you move out of the city limits.

Mr. PINCUS (Cook). Then all you have to do is to move out of the city limits and you are exempt?

Mr. CORCORAN (Cook). Your idea, Professor, was in buying a public utility say, for $1,000,000, that half the money would be a lien on the public utility and the other half on the people of Chicago?

PROFESSOR FREUND. It is just as the City Council may determine; this permits it to be placed entirely on the public utility or entirely on the public credit. Insofar as it does not pledge the credit on the city, it does not go into the limit.

There is at present a law in force that permits the consolidation of the various taxing bodies of the city, and that is incorporated by giving the city power to consolidate the various taxing bodies. It is also so phrased that if it could be made practicable the city may take over the Sanitary District property and merge the Sanitary District in that way. I doubt very much if that will provide practicable; I think it will require legislation. With regard to the relations between Chicago and Cook County, the committee realized the magnitude of the problem. Moreover, the city did not have the benefit of the cooperation of the county authorities, and therefore did not feel warranted to present a scheme of consolidation. It is also doubtful whether a scheme of consolidation could be devised sufficiently concise for incorporation into the constitution. It is very much simpler to confine the constitutional provision to a clause authorizing legislation for consolidation of city and county, or for the readjustment of the relations between city and county, and to remove whatever obstacles may be found in the constitution standing in the way of such legislation. The purpose in other words is to observe the principle of the open door, not to fix an arrangement at present, but to leave it to be worked out as conditions will make it appear wise to the Legislature.

Let me say that this scheme is a tentative scheme. You will find in certain places the term of years and in others, years and figures have been put in. We of course are not standing on those rigidly, but are leaving those things to your judgment. The committee fully realized when it comes

to matters of detail you are the judges and will have to decide. Our purpose was to place before you a scheme which on the whole we thought was fair and was in itself consistent and so clear that you could see exactly where you were going. Now, if it is desired in some way or another to question this, at least you have the advantage of a clear presentation, as clear as it seemed possible to make it, of what is meant by a constitutional home rule. I explained to the committee that personally I had no opinion as to the desirability of home rule or otherwise, I was simply acting as their draftsman in the framing of a scheme, as consistent as it was possible to make it; I do not flatter myself that I have entirely succeeded, but probably in the deliberations of this Convention there may be evolved something that may be beneficial and acceptable both to the people of the city and the people of the State.

Mr. WALL (Pulaski). Sub-sections 3, 4, 5, 6 and 7 of Section 14 of this proposal, we understand by this section that the actual indebtedness may be fixed upon the assessed valuation simply by authority of the city in unrestricted amounts?

POFESSOR FREUND. Not without the approval of the State Tax Commission. You have your check; it is not a rigid check but a flexible check.

Mr. WALL (Pulaski). Sub-section 6 reads, "Such ordinance shall be unalterable for a period of 20 years from the time it shall take effect, and thereafter shall be alterable only by like ordinance." If with the approval of the Tax Commission an aggregate indebtedness amounting to 80 per cent of the entire value of Chicago's property should be levied, you would be permitted to go into just that much and you could not change that for 20 years.

PROFESSOR FREUND. You could not raise it for 20 years, no.

Mr. SHANAHAN (Cook). Sub-section 7 on page 7, "Until a limit shall have been fixed as above provided, the City of Chicago shall not become indebted for any purpose to an amount including existing indebtedness, in the aggregate exceeding 5 per cent of the value of the taxable property therein." Do you mean by that 5 per cent of the full value, or assessed value?

PROFESSOR FREUND. These words are taken from the present Constitution and no change made. It was deemed necessary that until the city had made a different limit the present law should continue.

Mr. BECKMAN (Cook). I would like to ask your opinion as to the economic value of making Chicago and Cook County co-extensive, your opinion of the economic value of doing that.

PROFESSOR FREUND. I very much dislike to express a personal opinion on a matter to which I have not given proper study. I have been reading with great profit the pamphlet which is now in your hands in relation to Chicago and Cook County, which was prepared by the Constitutional Convention Bureau, and I have been greatly impressed by the arguments there set forth. I could hardly do more than express my concurrence in what I have read there. There is so much land in the county of Cook that is of purely rural character, I question the wisdom of having the city co-extensive with the county. I do not wish to be held to a definite opinion on the subject, because the question is one of great difficulty, and I have not given it sufficient thought.

Mr. MICHAL (Cook). The inherent principle of all taxation is of course the necessity of corporate interests?

PROFESSOR FREUND. Yes.

Mr. MICHAL (Cook). It has just occurred to me in the course of your discussion as to the powers of the City of Chicago and this thought suggests itself to my mind, just in a superficial manner, that for instance in the City of Chicago there is a tremendous income derived by people whose homes are in the suburbs of Chicago; take for instance just at random the municipalities of Winnetka, or Kenilworth or of Riverside or Oak Park, that the income tax, and taxes derived from that source would naturally exceed the

needs of those communities; what proposition is then involved in the exercise of such taxes?

PROFESSOR FREUND. That is very clearly a problem that will come before the State Legislature, the adjustment of conflicts between competing taxing authorities, I believe that the whole problem of income taxation will not be settled in a single phrase, but requires the most careful thought and elaboration. When the nation alone levied an income tax it was a simple problem, but when you get income tax levied by other bodies it will be necessary that these taxing authorities will consider themselves in reference to each other, and for that purpose you can readily see it is absolutely essential there should be in the State of Illinois a supreme authority, and that supreme authority is the State. Personally I think there should be the supreme authority in the nation, but unfortunately we cannot get it, but I think it would be a grave mistake to create another authority in this state that would present the same problems between the city and the State as now exists between the State and nation. The State legislature may be relied upon to see that local income tax powers will be properly coordinated with each other and with that of the State.

Mr. MICHAL (Cook). May I ask one more question. What is your opinion, Professor, as to the granting by the Constitution of powers to municipalities to levy a capitation tax upon residents of municipalities in lieu of the proposed proposition of income tax as being predicted upon the proposition that it can be more easily and readily and thoroughly and uniformly taxed and assessed than an income tax?

PROFESSOR FREUND. What is a capitation tax, you mean a definite amount on each person?

Mr. MICHAL (Cook). Yes, for instance a tax of two dollars on every resident in the City of Chicago or the City of Marseilles or the City of Peoria and so on.

PROFESSOR FREUND. I think if nothing was said the city would have the power to do that.

Mr. SUTHERLAND (Cook). I have a number of questions I should like to ask Professor Freund, with his consent, and I have no doubt that other delegates have questions. The hour is growing late, and therefore, Mr. Chairman, I move that the committee do now rest and report progress and ask leave to sit again in the afternoon session. With the Chair's permission, I will change that motion and make a motion to take a recess until 2:00 o'clock.

Whereupon a recess was taken until 2:00 o'clock p. m., Wednesday, January 28, 1920.

TWO O'CLOCK P. M.

Convention reconvened pursuant to recess.

The President in the Chair.

THE PRESIDENT. I will ask Mr. Hull of Cook to again take the Chair and the body will resume the discussion that was interrupted by the recess.

Mr. SUTHERLAND (Cook). This special committee of the City Council is entitled to the thanks of this Convention in its efforts to bring before this body this specific statement of the things which it thinks are necessary for the government of the City of Chicago. Whether we agree with them in detail or not it seems to me that we should appreciate that the members of the committee have given their time to this work outside of their normal activities, of their membership in the Council of Chicago. Each one is a member of some important Council committee which meets almost daily. Professor Freund has acted as their legal advisor and has done so as a personal accommodation without compensation as a contribution to the cause of good government, and for that reason I wish to say in advance that the questions I ask while critical are not hostile but intended to bring forth responses which will be illuminating and helpful to us in our work.

Now, Professor Freund, several questions were asked with reference to the income tax: Are there any cities in the states which are now having State income taxes which are permitted to levy or which do levy a separate local income tax in addition to the State income tax?

PROFESSOR FREUND. I know of none, and I believe there are none.

Mr. SUTHERLAND (Cook). Would it be possible, supposing that this Convention were to submit to the voters a provision permitting an income tax with the stipulation that it should be by general law, would it be possible under your proposed Chicago ordinance for the City of Chicago to levy a local income tax?

PROFESSOR FREUND. Not under those circumstances.

Mr. SUTHERLAND (Cook). You have drafted this proposed specific article for the City of Chicago as the legal adviser of the committee?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). Does it represent your own personal views as to what should be put into a Constitution with reference to the legal powers of a great municipality?

PROFESSOR FREUND. Of course, I am not committed to any policy of constitutional home rule, but assuming that is the desired thing, this represents an adequate and legal and proper formulation of it.

Mr. SUTHERLAND (Cook). Taking up some of the propositions as they appear in the article: Under sections 3 and 5 the proposition is as to the powers which shall be among those for local action; those which determine which of the powers conferred upon the city shall be exercised by the people of the city directly, in the method of their popular action; would that permit the city council to provide for an initiative and referendum, and a referendum of all matters over which the City Council would have power under this article?

PROFESSOR FREUND. It would in my opinion, yes.

Mr. SUTHERLAND (Cook). Would it permit the City Council to provide for the recall of all municipal officers?

PROFESSOR FREUND. It would, excepting those under civil service rules.

Mr. SUTHERLAND (Cook). All elective officers?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). Would that include the judges of the municipal court?

PROFESSOR FREUND. No; I do not think it would.

Mr. SUTHERLAND (Cook). Do you think it is desirable to have initative and referendum applied to all subjects which is in the power of the City Council to deal or which it would be in the power of the City Council to deal under this proposed article?

PROFESSOR FREUND. I would rather not express an individual opinion on that subject, it does not count for very much for this purpose.

Mr. SUTHERLAND (Cook). Do you thing it is desirable for the Council rather than the General Assembly to have the power to say whether or not there shall be a recall, initiative and referendum?

PROFESSOR FREUND. Yes; I think the City Council is as competent as the legislature to determine that, I have no hesitation about that.

Mr. SUTHERLAND (Cook). With reference to Section 8: The power of the city to own, acquire, construct, operate or let or lease for operation public utilities shall not be denied by law; is that power now withheld by the present Constitution?

PROFESSOR FREUND. No; the Constitution is silent.

Mr. SUTHERLAND (Cook). It is in the power of the General Assembly to grant that power?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). The second paragraph under section 8: "The city shall have exclusive power, either by the exercise of its legislative authority or by contract, to regulate the rates to be charged and the services to be rendered by persons or corporations supplying transportation, communication, light, heat, power or other public utilities to the people of

the city and enjoying special street privileges for that purpose." That paragraph would remove the City of Chicago from the jurisdiction of the State Utilities Commission, would it not?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). And it is intended for that purpose?

PROFESSOR FREUND. Yes; it is intended for that purpose.

CHAIRMAN HULL. Let me ask you a question with reference to the first paragraph of 8, "The power of the city to own, acquire, construct, operate or let or lease for operation public utilities shall not be denied by law." They are permitted now by law, are they not?

PROFESSOR FREUND. Not in that general way.

CHAIRMAN HULL. We passed an act during Governor Dunne's administration, as I remember it, authorizing municipalities to own and to operate utilities.

PROFESSOR FREUND. I should have to look into that.

CHAIRMAN HULL. This is to get away from the necessity of having to go to the commission, that is the purpose of it?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). Would that provision under the second paragraph in section 8 preclude a creation, either by the General Assembly or by the City Council of a metropolitan utilities commission similar in function if not in organization to that in operation in New York?

PROFESSOR FREUND. The metropolitan commission in New York operates exclusively in New York, I believe.

Mr. SUTHERLAND (Cook). Yes.

PROFESSOR FREUND. The city council might create such a commission, because that is a city agency, and it is for the city to determine by what agency it will exercise that power.

Mr. SUTHERLAND (Cook). I want to call your attention in that connection again to the language, "The city shall have exclusive power, either by the exercise of its legislative authority or by contract, to regulate the rates to be charged and the services to be rendered by persons or corporations supplying transportation, communication, light, heat, power, or other public utilities to the people of the city and enjoying special street privileges for that purpose." Do you think the term "legislative authority" is sufficiently broad to carry the delegation of legislative power to a commission?

PROFESSOR FREUND. I think it is when taken in connection with section 3, paragraph 1, "those which determine, create and organize the offices by which powers conferred or obligations imposed upon the city or upon any of its departments or agencies shall be exercised or performed as well as the subdivision of the city for municipal purposes.

Mr. SUTHERLAND (Cook). You do not think it is desirable to take any change on precluding the creation of a metropolitan commission, by the legislature or locally?

PROFESSOR FREUND. Locally, I think it ought not to be precluded. By the legislature, it would be in contravention of this general scheme.

Mr. SUTHERLAND (Cook). This is based not upon such a charter amendment, but as a purely constitutional home rule provision?

PROFESSOR FREUND. Exactly.

Mr. SUTHERLAND (Cook). Setting forth in the Constitution rather definite details.

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). Section 11 on page 5 by implication precludes the possibility of ultimately consolidating Chicago with Cook County if that in the future should become desirable?

PROFESSOR FREUND. Not if taken in connection with 12, which provides for that in express terms: "Limitations and requirements of the Constitution relating to legislation concerning county organization, county officers or county affairs shall not bind legislation regulating relations between the County of Cook and the City of Chicago or transferring functions performed by the County of Cook for the people of Chicago in whole or in

part to the City of Chicago, or creating or permitting the creation of the City of Chicago into a separate county."

Mr. SUTHERLAND (Cook). With reference to section 3, which provides: "The City of Chicago may fix the limit of the annual tax rate on real or personal property in excess of the limit prescribed by law with the approval of the Governor to be given or withheld only upon taking into consideration the recommendation of the State Tax Commission," and so forth; in what states is there authority for a state body thus to supervise in an elastic way the rate of taxation which a municipality may impose?

PROFESSOR FREUND. I do not think there is any precedent for this; it is a device to make the arrangement between the local and State authority more flexible than in the past.

Mr. SUTHERLAND (Cook). It is so comparable to the California act of 1917 creating a State Board of Authorization.

PROFESSOR FREUND. I suppose so.

Mr. SUTHERLAND (Cook). And it is wholly experimental.

PROFESSOR FREUND. Quite so.

Mr. SUTHERLAND (Cook). By experimental, do you think it is desirable to fix that sort of provision in the Constitution?

PROFESSOR FREUND. Well, it is a substitute for rigid limitation, and it will be more or less experimental; you have the choice between a limitation, an experimental new device or nothing at all. If we want to get away from what we have had in the past from absolute limitations which require constitutional amendments to overcome, I think something of this kind will have to be tried. It has been tried in other countries and has worked well.

Mr. SUTHERLAND (Cook). The General Assembly now has power to limit rates of taxation, has it not?

PROFESSOR FREUND. Yes.

Mr. SUTHERLAND (Cook). Supposing this sort of provision had this reaction, that your city governing body not being vested with full authority for exceeding the statutory tax rate should pass on its responsibility to the State Tax Commission, and practically in the last analysis ask the State Tax Commission to make its annual budget for it, in case of some emergency, would you consider that would be working well?

PROFESSOR FREUND. I believe that that danger is largely speculative, because the City Council will feel its responsibility upon a matter that the tax payers are sensitive about, and that is the tax rate; I think the City Council would not pass the responsibility; it has to get the confidence of the tax payers, in the case of a rather high tax rate, and assure them that it is due to the actual needs of the city. I think an impartial body that consists of experts that would make a thorough study of the financial needs would increase the confidence on the part of the tax payer that the City Council acts under the spur of necessity if it raises the tax rate.

Mr. SUTHERLAND (Cook). Is not that an argument rather to place the full responsibility in the council, because if the council is simply the preliminary suggesting body having an exercise over the tax rate, they can say, we suggested it to the Tax Commission and the Tax Commission raised the rates; the General Assembly is going to get the blame if there is any if the rates increase in the last session, the Council will not feel the blunt of it because the Council was not responsible.

PROFESSOR FREUND. Politically I do not think it works that way because the people are sensitive to that; the tax payer looks to the City Council for the curbing of expenditures. It is not the Tax Commission that finally passes upon the point, but simply gives an expert opinion to the Governor, and the Governor will withhold or grant his sanction, and I think the Governor will feel the responsibility as the City Council does. Of course, that is more or less a matter of opinion as to how this thing will work out. This will work well if it is wisely administered, but any scheme, of course, may go amiss.

Mr. SUTHERLAND (Cook). I do not feel opposed particularly to trying the experiment, but do you not think it would be better to leave the

General Assembly with authority to enact such a scheme rather than to tie it up hard and fast in the Constitution?

PROFESSOR FREUND. That might very well be considered, but at the same time if you do desire to get the utmost of home rule in this matter, this seems to be the way to do it; the other would leave the matter optional with the legislature; of course all this is controversial, I admit, and I fully realize that people will have different opinions in regard to it.

Mr. SUTHERLAND (Cook). Now, the provisions with reference to bonded indebtedness, so far as the aggregate is concerned are similar to those with reference to excessive tax rates, practically the same, so any suggestions as to the undesirability of tieing up such a piece of machinery indefinitely in the Constitution would apply to the provisions regarding indebtedness as well as to the provisions regarding taxation?

PROFESSOR FREUND. I think that is substantially true.

Mr. SUTHERLAND (Cook). Has this matter of limited indebtedness been tried in other states?

PROFESSOR FREUND. No, it has not.

Mr. SUTHERLAND (Cook). Now, with reference to the last provision as to "loans incurred for the financing of income producing property of the city and secured by the pledging of such property or its income or franchises or privileges necessary for its enjoyment, shall, to the extent that they do not impose upon the city any general corporate liability, not to be included in the limit of aggregate indebtedness fixed as aforesaid." Has that been tried in other states besides Ohio and Michigan?

PROFESSOR FREUND. We tried it in 1917 but it didn't work out because the Supreme Court in Lobdell v. The City of Chicago gave an adverse opinion.

Mr. SUTHERLAND (Cook). In your opinion would bonds so secured be as marketable as fully secured bonds of a municipality?

PROFESSOR FREUND. I suppose not, they might have to pay a higher rate of interest.

Mr. SUTHERLAND (Cook). Would it be possible to evolve any other safe-guard to protect the tax payer more adequately?

PROFESSOR FREUND. I cannot think of any at the moment.

Mr. SUTHERLAND (Cook). I am very much obliged, Professor Freund.

Mr. DAVIS (Cook). Professor Freund, if home rule is desirable for Chicago, as we believe it is, which of the two methods do your prefer, constitutional home rule or legislative home rule?

PROFESSOR FREUND. I have expressed my opinion but there is something to be said for them both.

Mr. DAVIS (Cook). This Convention will be called upon to take possibly a definite stand, not only on this proposal, but other proposals affecting cities, municipalities, counties and the State itself; unquestionably it will be called upon to state specifically what its views are on this proposition as affecting Chicago. Do you care to state more definitely what your personal views are from the stand point of a constitutional lawyer, one who has had a good deal to do with drafting legislation and passing on its effect, which of the two methods is preferrable?

PROFESSOR FREUND. I am placed in a somewhat embarrassing position; I am acting as the representative of the City Council.

Mr. DAVIS (Cook). If it embarrasses you I will withdraw the question. Do you feel you can enlighten us? I, for one would pay great attention to your judgment because I have a great deal of admiration for it.

PROFESSOR FREUND. I have always personally been an advocate of as little as possible in the Constitution.

Mr. DAVIS (Cook). That is one of the things I have learned from your books. Now, then are we to understand, Professor, that your work in connection with the activities of the Council is limited entirely to being a draftsman, or are we to pay attention to your expressed views expressed at this time on the fundamental question of drafting a Constitution, the extent to which the makers of the Constitution shall legislate in that documents.

PROFESSOR FREUND. Let me say a word in regard to that. Suppose you desire constitutional home rule, as the city desires it, and as I think in accordance with the tendencies of the time, because if you examine the history of constitution making, since 1875 when Missouri started it, there has been a very distinct disposition on the part of Constitution makers to give to the city the status that the county has. If the county has it the city ought to have it. Now, it does not seem to me a question of our preference, but adjusting ourselves to such tendencies as we can see. Personally, I would prefer a Constitution of the type of 1818, but my judgment tells me that the people do not want to go back, because they want to say what they shall have and they want to express things in the fundamental law. Given that proposition, that constitutional home rule is from the practical point of view the more likely to come and perhaps the more expedient to advocate, then I think it is not a fact that this proposal unduly legislates; all that is attempted to be done here is to fix the limits of what the legislature may do, and the greatest care has been given to the thought of not tying up things unduly. If things have been put in here that tend to tie up things, they have been put in by me in deference to express wishes and not in accord with my own desires. I feel that no Constitution should tie up more than necessary, but that the Constitution should clarify the relations as far as possible. If, for instance, you do make the city in some manner supreme, then it seems to me the point where in the city is supreme should be made clear beyond the peradventure of a doubt.

Mr. DAVIS (Cook). In your draft you do two things, remove certain limitations on the power of the General Assembly and you grant power to the City of Chicago, do you not?

PROFESSOR FREUND. Yes; subject to legislative control.

Mr. DAVIS (Cook). Do you care to elaborate more fully than you have in your pamphlet the dangers in connection with granting powers to municipalities and the danger that would come from the fact that we may not place sufficient limitations upon those powers?

PROFESSOR FREUND. All the powers granted to the municipalities by the Constitution are subject to every one of the limitations that you find in the State Constitution, the entire bill of rights, the judiciary article applies to city government as well as to State government.

Mr. DAVIS (Cook). The answers that you made to the questions propounded by Mr. Sutherland (Cook), in the case of the legislature, we have passed the experimental stage; the questions of the limitations which are placed on the powers of the General Assembly have been decided; in this case you are granting powers, and I am asking you is there not great danger on the part of this Convention in failing to place insufficient number of limitations on the powers you are asking us to grant to the City of Chicago?

PROFESSOR FREUND. Isn't it true that this charter is subject to the Constitution? Every provision which substantially limits the exercise of legislative power in Illinois will also limit the exercise of the city's power within the city. We do not want to get away from constitutional limitations here. Now, you take every law protecting property rights, take the entire bill of rights; your entire judiciary article, and they apply to the city government as well as the State government.

Mr. DAVIS (Cook). Based on your personal experience with the legislature of Illinois and your knowledge of legislation in general, has the City of Chicago had any difficulty in getting such legislation as it required from time to time which the General Assembly might grant under the Constitution of this state.

PROFESSOR FREUND. As I know history, it has been a slow and very tedious process. The city has constantly found itself without power, it would go to the legislature and get it finally, perhaps, but with certain limitations; the question is whether the city should not be free to exercise that power instead of taking the time of the legislature. If the legislature usually gave to the city what the city asked for, that is in one sense an argument for home rule, because after all the legislature abides by the

judgment of the city, as to what it needs; it is within the power of the legislature to deny the power asked for.

Mr. DAVIS (Cook). It is much easier for the legislature to correct its errors, if errors there may be than if those rights were granted to Illinois in a document which we call a constitution.

PROFESSOR FREUND. You give the power subject to legislation; it is not granted as an exclusive power, but as a subordinate power. The legislature can limit the powers of the city except in matters of organization, and if you do not desire that cut it out; that is offered as a strong bid for home rule. I fully concede the possibility of differences of opinion in regard to that, and there may be those who feel that the city should not have that power of self determination, although it is a city of two and one-half millions; that is a political question upon which there will be a difference of opinion.

Mr. DAVIS (Cook). I am not trying to embarrass you. Would you care to elaborate on the question I am asking you, on the ultimate desirability of constitutional or legislative home rule for Chicago? I will withdraw the question, Professor Freund. Section 2 of the proposed article reads that "laws of the State relating to the organization of the City of Chicago and to the mode of exercising its powers may be superseded in their application to the city by or under a charter framed by an elective convention called as provided by a city ordinance, and adopted by the voters of the city as provided by the convention" and so forth. Were it not for section 6 on the next page, you would construe section 2 as giving Chicago power to create its own judicial system and its own courts, would you not?

PROFESSOR FREUND. I doubt that very much because in my opinion the power to administer justice has never been treated as a power of local government, it is a State power which may be delegated, but not eliminated under the local self government, justice having been a State matter from time immemorial.

Mr. DAVIS (Cook). It was not intended to give the City of Chicago that power.

PROFESSOR FREUND. No.

Mr. DAVIS (Cook). Would you consider it advisable to use words of limitation which are more definite than those contained in 6 regarding the judicial system as it may be applied to the City of Chicago?

PROFESSOR FREUND. I cannot answer that question without knowing what you have in mind.

Mr. DAVIS (Cook). You think you have expressed it sufficiently in 6?

PROFESSOR FREUND. Surely, I think so.

CHAIRMAN HULL. Wherein in this proposal is the delegation of taxing power other than offered here in section 13?

PROFESSOR FREUND. Well, the power to tax is as distinguished from the power to administer justice, a local power.

CHAIRMAN HULL. It would be granted under paragraph 1?

PROFESSOR FREUND. Yes, under the old English law, to levy rates was regarded as a corporate power, and we are governed largely by tradition, but I should say it is a power of the local government. I had it in and then struck it out because I thought it might be regarded as a limitation if put in.

Income producing utility is any public industrial enterprise owned by the municipality which is run on a revenue producing basis, as water, lighting and so forth, run on a revenue producing basis. There may be some question about whether sewage disposal and the lighting is done free of charge; on the other hand the city might go into transportation, the city might go into furnishing electric lights, lighting houses by electricity or go into any other kind of service furnishing commodities to the public for consumption, and that would be income producing.

Mr. SCANLAN (LaSalle). When would it be determined, in the first instance, wouldn't it have to be an income producing utility in operation?

PROFESSOR FREUND. I said income producing, whether net or gross, that remains of course to be determined. A thing might be run at a loss

and yet would be an income producing utility, some income would come of it, but not enough to defray the charges.

Mr. SCANLAN (LaSalle). If there was a loss at the end of every year?

PROFESSOR FREUND. The term income producing might be capable of improvement.

Mr. SCANLAN (LaSalle). In paragraph 8, loans incurred for the financing of income producing property of the city and secured by the pledging of such property or income, and so forth, that means you would borrow money on that utility alone, is that the idea?

PROFESSOR FREUND. Yes.

Mr. SCANLAN (LaSalle). In other words you could not borrow money and use that in some other enterprise, use it on the water works?

PROFESSOR FREUND. I suppose not.

Mr. SCANLAN (LaSalle). "Loans incurred for the financing of income producing property of the city and secure by the pledging of such property," and so forth. Has that to do with other property that the city might engage in other than the one pledged for the money?

PROFESSOR FREUND. I don't think it could.

Mr. SCANLAN (LaSalle). If the money was pledged for the water system, that money would have to be used for the department of water supply?

Mr. SIX (Pike). You have in your general scheme the first of five paragraphs relative to the plan which the Council proposes, the first one setting up the granting of power, the second paragraph setting up the second on organization and the mode of exercising that power, paragraph 3 attempting to define what you have classified in paragraph 2, and in paragraph 5 a statement as to what you have reserved as to the State. The question I have is as to what sovereign power under that scheme, if I have correctly stated it, is left to the State as you understand it?

PROFESSOR FREUND. I would take exception to that statement, I do not think you quite comprehend the meaning of section 5, it may be poorly worded; it is not intended that 5 should be the only matters reserved to the State; in addition to that everything relating to public welfare and public finances is reserved for the State supremacy. These three items are the only items that might be said to be matters of organization which the city claims are free from State interference. It is not by any means intended that section 5 should state the sum total of matters reserved to the State, far from it; the State may at any time interfere.

Mr. SIX (Pike). With the city's police power, and that is not mentioned at all in section 5, does paragraph 5 and paragraph 1 cover the ground reserved to the State?

PROFESSOR FREUND. Section 1, in speaking generally contains no limitations whatever, the only limitation it does contain is the law that supersedes city power shall not be a special law, but must be a general law. For instance, suppose that the city passes an ordinance relating to the height of buildings; there would be nothing in this charter that would not permit the legislature to establish a law as to buildings, if the legislature chose to exercise that power by general legislation. Suppose that the city has one standard of tenement house construction; the State the next day might make a statute of more stringent and establish different rules in regard to the sanitation and public health, the State has full power to supersede city legislation in the exercise of the police power.

Mr. SIX (Pike). If we make no reservation under section 1, could you operate under paragraph 2 and the first section of paragraph 3, and we say nothing about the qualification as to suffrage, the City of Chicago then would determine who would vote under section 1, of paragraph 3, is that not correct?

PROFESSOR FREUND. No, because conditions of suffrage are determined by the Constitution. Some things are assumed; the entire bill of rights, it was assumed, will be in the Constitution and therefore is not placed in here.

Mr. TAFF (Fulton). Under section 8 if the utility was taken by the City of Chicago and did not produce revenue, could funds raised by general taxation be diverted to that utility?

PROFESSOR FREUND. Yes, they would be.

Mr. SHANAHAN (Cook). Do I understand you to say that if the city took over the public utilities and the revenue was not enough to redeem the bonds and pay the interest that the city could take over some of its corporate funds to maintain those utilities?

PROFESSOR FREUND. Yes, not to pay the obligations that exceeded the limit of indebtedness. If the city incurs an obligation of 50 million dollars which was secured by the pledging of the particular system, those 50 million dollars could be paid only out of the system, neither interest nor principal could be raised out of any other fund than the income produced from the public utility. Of course it is very true that the creditor advancing the money would have a first lien upon the entire income.

Mr. SHANAHAN (Cook). Would they have any right to come in and ask for the spreading of a tax to pay for the carrying of the bonds and interest?

PROFSSOR FREUND. Most decidedly not.

Mr. SHANAHAN (Cook). Or come in and ask that additional bonds be put aside for that purpose?

PROFESSOR FREUND. Assuredly not.

Mr. SHANAHAN (Cook). Would the City Council have the right to divert any of the corporate funds to pay for the maintenance of these public utilities?

PROFESSOR FREUND. Outside of the payment of interest, yes.

Mr. SHANAHAN (Cook). So they could take a million dollars of corporate funds and use it to maintain and operate these public utilities?

PROFESSOR FREUND. Yes, they could.

Mr. TAFF (Fulton). If that were true and it resulted that the utility instead of spending its revenue for operation might use the funds for operation and therefore use all the funds received from the utility for other purposes, and in effect make the utility be run by general taxation.

PROFESSOR FREUND. Oh, I suppose theoretically that might be true, but practically I suppose it would be entirely out of the question; that would be a plain fraud on the tax payers; I cannot imagine any scheme of finance that would fail to guard against so palpable an evasion of the constitutional provisions.

Mr. TAFF (Fulton). Isn't it a fact that municipalities are in the habit of going from one fund to another, and it would be opening the door of one more way of diverting funds of some utility?

PROFESSOR FREUND. I cannot imagine a system of fiinancing public utilities being enacted that would not safe-guard against that danger.

Mr. MILLER (Cook). What provision would prevent the City Council from running public utilities by general taxation?

PROFESSOR FREUND. Only so far as the financing is accomplished by the city's obligations; that must be in good faith restricted to the revenue of that utility. In other words, the bonds must be paid out of that, and the whole thing self supporting.

Mr. MILLER (Cook). There is no provision of the Constitution now which would prevent the use of public funds, that is, to operate the public utilities, is that true?

PROFESSOR FREUND. Yes.

Mr. MILLER (Cook). So far as this proposed charter is concerned?

PROFESSOR FREUND. No, not as far as the city chooses to incur those obligations which by their terms and by the terms of the Constitution are obligations payable out of the revenue from those utilities.

Mr. MILLER (Cook). Why do you say that you cannot conceive of such a thing happening as operating utilities on taxation?

PROFESSOR FREUND. So far as these utilities are not to be run on the general credit of the city, but are to be run on the pledging of those

securities, that limitation would have to be carried out in good faith, otherwise the tax payers would nip the scheme in the bud.

Mr. MILLER (Cook). So far as operation is concerned, that might be carried out lawfully under the Constitution by taxation?

PROFESSOR FREUND. Well, I would have to work that out in terms of finance, but I think ways and means could be found by which this could be carried in effect.

Mr. MILLER (Cook). Your view is that the people by Constitution should place very few limits on the legislature?

PROFESSOR FREUND. Yes.

Mr. MILLER (Cook). And that principle should apply to the City Council in the case of home rule?

PROFESSOR FREUND. Yes.

Mr. MILLER (Cook). As I understand you now, you see no reason why just as broad powers should not be left to the City Council as to the State legislature?

PROFESSOR FREUND. I think that is substantially what is given here, except the legislature is supreme.

Mr. MILLER (Cook). You see no more danger in leaving full powers to the City Council than to the legislature?

PROFESSOR FREUND. Well, that is a political question, that depends on how much faith you place in them; of course that may be questioned by the people of the State.

Mr. MILLER (Cook). I understand you to say some time ago that so far as your personal views were concerned there was no more reason for limiting the powers of the City Council than the State legislature by the Constitution?

PROFESSOR FREUND. I believe that only with regard to organization, but not with regard to powers. I believe that the State at large has conservative element that the city is not likely to have, and for that reason I am very much in favor of reserving the power in the State legislature; there I differ very largely from the extreme advocates of home rule; I do not believe that the State legislature, representing not only persons but acres of land has the same outlook and point of view as the city authorities. This is a vital political element in my mind which should not be lost sight of; I have my own views on this subject. Absolute power over organization is one thing, and if the city wants it I would not stand in the way; it is a very different matter to give the city absolute power over personal or property rights.

Mr. MILLER (Cook). So far as taxation is concerned, you class that as powers of organization?

PROFESSOR FREUND. Certainly not.

Mr. MILLER (Cook). Your view I take it is, in the legislature there is less danger of hasty and ill considered legislation than where the majority impose on the minority, as in the City Council?

PROFESSOR FREUND. I do not say hasty or ill-considered; it is a question of radicalism conservatism; you may very carefully consider a scheme of radical legislation, and be in favor of it.

Mr. MILLER (Cook). Is there any danger in the municipal government, the City Council that would not to some extent exist in the State legislature?

PROFESSOR FREUND. Not as much, the Council is not in the rush and hurry, as in the last stages of the legislature.

Mr. MILLER (Cook). They are always in session?

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). I note the difference in the term organization and power; you made a very fundamental distinction between organization and power; what do you mean by that, to give the city unrestricted powers?

PROFESSOR FREUND. My view is this, that if the State says the city may exercise this and that power with such and such limitation, the city may say we propose to exercise that power through this and that agency,

through the Mayor or Council, through this or that department, through such officers having such a tenure, through a Council composed of one chamber or two chambers, through a council composed of members holding office two, four or six years, just as they please.

Mr. MAYER (Cook). You mean that the City of Chicago having unlimited constitutional power as to its organization could by the adoption of a charter submitted to the people subject to the Constitution, could adopt a form of government where there would be say only a City Council elected and no other officers elected, and limiting the size of the city council, that is, the structure of the city itself, that would be free from all legislative interferences?

PROFESSOR FREUND. The city has that power now, they may adopt the commission form of government, if they choose.

Mr. MAYER (Cook). That is subject to the legislative change under the present Constitution.

PROFESSOR FREUND. Quite right.

Mr. MAYER (Cook). If the people of the City of Chicago, with this constitutional amendment deem it wise to create the City of Chicago, which shall be composed of a City Council whose number shall be 35 wards and that each ward shall elect a member of the Council, and that the City Council so elected shall possess all power vested in the city by the charter or by legislative enactment.

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). That would be entirely within your theory?

PROFESSOR FREUND. Quite so.

Mr. MAYER (Cook). And that is the distinction between the organization which would be exclusively within the power of the people of Chicago not subject to change by the legislature, but the powers vested in such organization would always be subject to change by the legislature?

PROFESSOR FREUND. That expresses my thought exactly.

Mr. GALE (Knox). Just a question with regard to article 13 on page 6: In your judgment is there any possible danger of conflict if this were adopted between the taxing power of the State and the taxing power of the city? Suppose the new Constitution contains a general limitation of the tax rate which may be levied, say, by way of illustration, 10 per cent to the State, it levies its taxes and the city levies it taxes up to the limit; there has got to be a reduction on one or the other; section 2 says: "The General Assembly shall not limit the annual tax rate on real or personal property by reference to the rate of taxation imposed by other authorities exercising powers of taxation over property in the City of Chicago, and such limit now existing shall become inoperative." Would there be under such circumstances any possibility of conflict with some other provision of the Constitution?

PROFESSOR FREUND. It would mean that the general rate is ten per cent and under the Constitution it may not go any higher, the State takes that ten per cent.

Mr. GALE (Knox). The State would take possibly less than one per cent out of the ten.

PROFESSOR FREUND. The State legislature would not limit it but the Constitution would then limit the city to nine per cent or to such rate as would make the total not more than ten per cent; in other words this would be subject to the Constitution.

Mr. GALE (Knox). Subject to the taxes levied by the State.

PROFESSOR FREUND. Oh, yes.

Mr. HAMILL (Cook). In some states where they have constitutional home rule each city forms its own charter and defines how it shall act, with the result that when one makes a bond issue, counsel is without material for determining whether or not they are valid. It is true that the charters are unknown sometimes outside the cities themselves, so investors in their securities have no means of determining what their local powers are.

PROFESSOR FREUND. Well, as to that particular problem I cannot answer, but it seems to me that the charter should be made a sufficient matter of notoriety so that you can go to the charter provisions as easily as you can to the statue and that ought to be done. I think if it came to a charter, that matter would have to be very carefully studied; as a matter of fact I do not know but that the Constitution should have a clause requiring that charter provision should be published; I should greatly welcome a provision of that kind myself.

Mr. DAVIS (Cook). May I ask you this? The legislature does not pass any legislation regarding recall; the City Council by ordinance produces measures by which city officials may be recalled; that ordinance would be effective until such time as the legislature would pass a law prohibiting any law looking to the recall of any official?

PROFESSOR FREUND. No, the law could not prohibit.

Mr. DAVIS (Cook). If there were a law on the statute books prohibiting recall, then the City Council could not pass that sort of ordinance?

PROFESSOR FREUND. Yes, it could.

Mr. DAVIS (Cook). Do you consider that matter of organization or power?

PROFESSOR FREUND. That is organization.

Mr. DAVIS (Cook). I am wondering if all the gentlemen who are listening to you have gotten that distinction.

PROFESSOR FREUND. It seems to be very clear that anything that does not touch anything, except the organs of the city which perform the city's function is prima facie matter of organization.

Mr. DAVIS (Cook). Would you say that the State of Illinois did or did not have any interest in a matter of policy like, for instance recall, although it may exist in only one city within the State?

PROFESSOR FREUND. Not any more than it has in the initiative and referendum, that is an issue of policy, and I cannot tell you anything about that that you do not know yourself.

Mr. MAYER (Cook). You have tried to make clear the distinction between organization and power, have you not?

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). And you say that so far as the faculty of organization is concerned, the City of Chicago will be sovereign?

PROFESSOR FREUND. Subject to the State Constitution.

Mr. MAYER (Cook). We will interpret that as being part of every question, so far as the exercise of its powers go it is subject to the veto of the legislature?

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). Suppose the City Council of Chicago should conclude to expend 100 million dollars in the construction of a new subway, elevated road, and surface transportation system, would that be organization of power?

PROFESSOR FREUND. Power.

Mr. MAYER (Cook). And the legislature vetoed that?

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). Suppose the legislature is not in session; suppose the city passes such an ordinance and incurs an obligation, lets contracts to construct 100 millions of transportation system—I read sometimes 150 millions—and the legislature is not in session and the City of Chicago has gone on with this work and let this contract and incurred indebtedness, and the legislature at its next session, as I understand the interpretation of that article can veto that, is that correct?

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). What becomes of the work that the city may have done in the mean while?

PROFESSOR FREUND. The legislature could not impair the obligation of the contract.

Mr. MAYER (Cook). If the legislature did stop it when it next convenes, you would have the City of Chicago with all sorts of embryotic and chaotic improvements in process of completion and none completed. Haven't you gone too far?

PROFESSOR FREUND. As I understand it, after a contract is validly entered into the legislature cannot avoid it.

Mr. MAYER (Cook). What becomes of the veto power? All the City Council need to do is to wait until the legislature is not in session and then go on and exercise its manifold powers and then say to the legislature you are too late, you cannot veto this, we have done it. What I am driving at is to have you help us and we help you in arriving at the clearest analysis of your proposition. I stumble at that situation.

PROFESSOR FREUND. It is true that at the present time there are no laws that make that impossible, and I suppose the laws regarding finance and bonded indebtedness would make a scheme of that kind impossible until the legislature removed some of the present limitations.

Mr. MAYER (Cook). No, no, Professor, we are going to adopt a new Constitution.

PROFESSOR FREUND. Yes.

Mr. MAYER (Cook). What progress could the City of Chicago make under this new constitutional charter in building an elevated railroad or subway, or a gas plant or a electric light plant if the legislature has the veto power? I think you have gone too far when you say the legislature shall have the veto power over the exercise of every power by the city, and if you have not gone too far what advantage would it be to the City of Chicago to have these embryotic, nebulous powers that are always subject to a lobby going down to Springfield, or to the best intentioned of people going to Springfield and asking for a veto?

PROFESSOR FREUND. I would not believe that the legislature had the power by law to impair valid contracts entered into by the city.

Mr. MAYER (Cook). I am calling your attention to a specific application. The City Council adopts an ordinance to construct 100 million dollars worth of street railways; it goes on with that construction and the legislature meets the next January and it passes a specific law vetoing this particular contract.

PROFESSOR FREUND. It could not do that.

Mr. MAYER (Cook). Why?

PROFESSOR FREUND. Because the legislature may interfere with the exercise of city powers only by general laws applying throughout the State. In other words, it would have to pass a law prohibiting generally the building of subways by municipalities.

Mr. MAYER (Cook). But this has been done.

PROFESSOR FREUND. It would act prospectively.

Mr. MAYER (Cook). Let us go further; it undertakes to buy all the existing elevated roads, street, surface and transportation lines; it has been whispered to me that such things now are being talked of; I am not in the confidence of the City of Chicago or any other city, but have heard these whispers in certain portions of LaSalle Street. Suppose the City Council should consummate those contracts of purchase, what effect would be the veto power of the legislature?

PROFESSOR FREUND. They cannot stop it if it has been done.

Mr. MAYER (Cook). You do not answer my question. I am trying to see to what extent this veto power is efficient. All the City Council would have to do would be to exercise those powers while the legislature was not in session, and then say to the legislature, we have exercised these powers and you cannot interfere with the cancitity of our contracts.

PROFESSOR FREUND. In so far as very large undertakings are concerned, I think that under our general laws, the city would not be able to go very far; the exercise of the power of eminent domain is regulated by law; the power of the city over local improvements is now regu-

lated by law; the power to incur indebtedness is now regulated by law; such things as you speak of could not be entered into by stealth.

Mr. MAYER (Cook). It is going to be debated and discussed; suppose this were done in January of 1920 and the legislature does not convene until January of 1921; this is not done over night, not in the alleys or in the corner of some grocery formerly a saloon, but done openly, and the City Council incurs such obligations and immediately issues after the purchase is consummated its temporary bonds which become definitive bonds after engraved, have you put a sufficient check in the skeleton Constitution upon the power of the city, or do you want to give it unlimited power?

PROFESSOR FREUND. If you put a check upon that power what becomes of home rule?

Mr. MAYER (Cook). Then the distinction between organization and power is simply a theoretical distinction and does not exist at all.

PROFESSOR FREUND. Take the matter of constitutional home rule such as that granted by the legislature in 1907, we have exactly the same situation.

Mr. MAYER (Cook). You are now making an argument in favor of unlimited power; my question was that your distinction between organization and power is not quite as extensive as you have made it.

PROFESSOR FREUND. Perhaps not; as soon as you grant a power it is subject to abuse. If you give the city general powers of action such as are possessed by the cities of France, Germany, Holland and so forth, why then you run that risk; every city possesses that power over there, and it is not abused.

Mr. MAYER (Cook). But do not forget, Professor, we are in Chicago and not in European cities.

PROFESSOR FREUND. If you feel that the City of Chicago should not be entrusted with home rule, of course that is not for me to say.

Mr. MAYER (Cook). That is not my position.

PROFESSOR FREUND. I wish to point out this, if the scheme is statutory or constitutional, in that respect it does not make a particle of difference, because we have that leeway of two years within which the city can do a lot of things which cannot be undone.

Mr. MAYER (Cook). I contend that under your article that the veto power is mythical; I do not want to be argued into a conclusion based upon a promise which is, there is veto power back of that legislation, because when I analyze your proposition there is no such veto power.

PROFESSOR FREUND. There is no veto power in the sense you seem to understand it, and I never meant to use the term, I certainly did not originate the term.

Mr. HAMILL (Cook). It has the power of repeal.

PROFESSOR FREUND. Yes, a prospective inhibition; there is no machinery for veto; if you want to put that in it would have to be carefully thought out; personally I have no objection to a multiplication of administrative checks.

Mr. MAYER (Cook). The city proceeds along this power; your draft limits the liability of the city, as you have explained it in its public utilities securities and the revenue derived from those securities?

PROFESSOR FREUND. In so far as it chooses to do so.

Mr. MAYER (Cook). The City of Chicago undertakes to build a system of street railroads and has 100 million dollars; your purpose is to limit the revenue out of which the principal and interest shall be paid——

PROFESSOR FREUND. No.

Mr. MAYER (Cook). Where will you pay your interest if there is no revenue derived from that utility?

PROFESSOR FREUND. If the city desires to exceed the aggregate debt limit it may do so by limiting the securities of the obligations to the income producing property.

Mr. MAYER (Cook). And then when it reaches its constitutional debt limit, do you think that those securities would find any saleability in any conservative banking institution in America?

PROFESSOR FREUND. That is not for me to say.

Mr. MAYER (Cook). How would you like to leave to your family bonds of the City of Chicago which contained the inscription "principal and interest on these bonds are payable only and exclusively out of the revenue derived from this specific utility"? The City of Chicago fixes wages, fixes hours of employment, it pays the best prices for material and for the operation and maintenance, as you know and every observing American citizen knows it costs more to maintain and operate a public utility when maintained and operated by the city than by private enterprise, and the city will limit the rate. What interest do you think the city would have to pay on such securities?

PROFESSOR FREUND. I know the power was asked and granted by the legislature in 1907; it is not certainly for me to say that the city asked for a futile thing. If they desire that power and they cannot use it, it is harmless, it is not a vicious power.

Mr. MILLER (Cook). You answer the question by saying that the city could pay the interest and principal upon the bonds, the income from the utility and the balance by taxation.

PROFESSOR FREUND. That could not be done, that is a plain fraud; this clause should be amended so this could not be done.

Mr. SHANAHAN (Cook). Say the city issues 40 million dollars of bonds to take over a public utility to be paid for in 20 years; that means you are paying $2,000,000 interest every year, two millions of bonds taken over making four millions, that the income is seven millions and the expenses are four millions, leaving you a net income of three millions, and you pay the bonds and the interest, four millions, there is a deficit of $1,000,000. Do I understand that they can take the one million of the corporate funds to make up this deficit?

PROFESSOR FREUND. I don't know whether I follow you.

Mr. SHANAHAN (Cook). They issue 40 million dollars of bonds to be paid in 20 years; two millions per year, interest two millions, that is four million; the income is seven and the expenses four millions, leaving a net income of three million dollars. Now, if they pay out four million dollars on the bonds and interest there is one million deficit; can the Council appropriate one million dollars of the corporate funds to run the public utility?

PROFESSOR FREUND. No, I would say that the one million deficit would come out of the interest.

Mr. SHANAHAN (Cook). I understood you to say in answer to Mr. Taff's question that they could take this from the corporate fund to maintain the utilities?

PROFESSOR FREUND. I said the opposite. I see perfectly well that this must be guarded more carefully than it is, it must be made clear that the creditors must look to the net income on the property for the satisfaction of their claim.

Mr. SHANAHAN (Cook). Then Mr. Mayer's question is quite pertinent there.

PROFESSOR FREUND. Yes, the city could not finance it unless it could satisfy the creditors there was enough income to pay their claims.

Mr. REVELL (Cook). If we should adopt a five cent rate in Chicago and it really cost us six cents to do it, is there any way to relieve the rest of the City of Chicago from the obligation of that one cent difference?

PROFESSOR FREUND. If the creditors are willing to take the chance, yes, that is the law in every other corporate enterprise; the members of the corporation are not under an unlimited liability but the citizens of Chicago have an unlimited liability in their liability to taxation.

Mr. MAYER (Cook). That is what we want to avoid.

Mr. REVELL (Cook). My question is not to the creditors, the obligation of the people of Chicago, they could not relieve themselves from that responsibility of that added cent of cost.

PROFESSOR FREUND. You will find that provided for in the other section which says that the city shall have the power by contract to fix the rate; of course the city must fix an adequate rate if it wants to finance its operations; the city is no different from a railroad company that wants to float its obligations.

Mr. MAYER (Cook). This is because the lender gets the security of all the property of the railroad company and if the company does not pay he goes to the Federal court, by preference of course, and takes possession of the property.

PROFESSOR FREUND. So he does here.

Mr. MAYER (Cook). You would permit private interests to acquire the property?

PROFESSOR FREUND. Under the law of 1907——

Mr. MAYER (Cook). That was never utilized.

PROFESSOR FREUND. That law was declared unconstitutional. The creditors could take over the property.

Mr. MAYER (Cook). What becomes of your municipal ownership?

Mr. SHANAHAN (Cook). Let me ask another question: Do you make any distinction between operation and maintenance? Can the City Council make any fund for the operation of the public utilities?

PROFESSOR FREUND. Not for the purpose of buying the securities.

Mr. DAVIS (Cook). Can they appropriate to pay wages?

PROFESSOR FREUND. I think they could, yes.

Mr. SHANAHAN (Cook). Then in that way the corporate funds can be used to operate and maintain and to pay the bonds and interest indirectly by appropriating money for the operation of the public utilities.

Mr. TAFF (Fulton). My question was under section 8 of this scheme which was presented by you, the public utility so taken over did not produce sufficient operating revenue. Can funds be taken which had been raised by general taxation for the purpose of paying this operating expense? Do I understand that you answered it could?

PROFESSOR FREUND. I was just considering this question that Mr. Shanahan was asking me.

Mr. TAFF (Fulton). First, am I clear on that?

PROFESSOR FREUND. I was not clear in my answer; what I had in mind was the proposition that the city should in part issue its general obligations and in part certificates, you would have to have a well worked out scheme whereby the proportion of revenue represented by the proportion of general indebtedness could be used out of the corporate funds and not otherwise. In making my first statement, I was thinking of general obligations only.

CHAIRMAN HULL. Unless there are other questions on behalf of the Committee of the Whole, I wish to thank Professor Freund for his able exposition of this proposed article on the City of Chicago. We will now hear from Mr. Hornstein, Assistant Corporation Counsel of the City of Chicago.

Mr. HORNSTEIN. Mr. Chairman, and gentlemen of the Convention: The Council Committee comes before you today with a complete article, a concrete proposition for home rule for the City of Chicago. It states to you what the Council wants and as has been said by Alderman Lyle, it is more than a tentative proposition. It was first an original draft by Professor Freund after many consultations with the committee that had the matter in charge, after much study, and when that was considered by the City Council, reported back to the city, subjected to criticism, amended and finally in its present form adopted unanimously by the City Council, and it expresses in concrete form what the City Council wants.

Professor Freund is the author of this instrument, but there are ideas expressed therein and engrafted on it after he had completed his draft which possibly does not represent his own personal views. It is proper for me at this time to say that some of those ideas came to him through me, after we discussed the matters very thoroughly, and after I had freely criticised, and he did me the honor to accept some of my views and to make some slight changes, and after he made those changes so far as I was concerned I came to the conclusion that this document as it is before you now contains a complete measure of home rule for the City of Chicago as far as it is possible to secure it. There are limitations on complete home rule. The City of Chicago cannot be an automonous state. It is within the State of Illinois and therefore certain limitations must apply, as far as it

is possible to give the City of Chicago home rule that is done in this article. This committee does not present it with the idea that you must take it or leave it as it stands, but with the idea they are presenting to you what they want, and leaving it to you to make such modifications and changes as you in your wisdom may deem necessary and still preserve the central idea that is expressed in this article, that the city of Chicago shall get as much home rule as can possibly be given to it. I have no doubt that the committee that has this matter in charge will give each section and each paragraph most exhaustive study, that there will be an extensive study made of the whole subject matter and aside from anything that appears in this. In fact, it almost seems to me at the time Professor Freund was before you that you were putting the intensive study into the Committee of the Whole, and you were going to leave the remnants for the committee that has this in charge to deal with, but that I take it is an indication of the close study that will be given to this matter in the committee that will consider it in all its details.

It therefore seems to me, considering the amount of time that has been spent on this, it would perhaps be better for me to take this up and make a little intimate analysis of the different propositions that are contained in it so that all the members may grasp the substance of it and find exactly what we are after, and that will enable you later on to understand more fully such details as may come up.

I used that expression, "what we are after" in its broad sense. I, of course, want to be understood as acting for this committee. I am not acting at the present time as the agent or representative of either the law department of the City of Chicago or the city administration. I was sent into this committee and given this work of Professor Freund's to look over with only one instruction, and that was to see to it that nothing was put in this article which would hamper or hinder the carrying out of the plan to have municipal ownership of street railways as contemplated in Mayor Thompson's message of last October. Outside of that no instructions were given to me, but at the same time I want it understood that the law department as a department has not passed on this, that the Corporation Counsel has not passed on this work, and I am not expressing any views except my own.

With that I will take the liberty of running over this very briefly, if I am not taxing your patience too much, some of the items and clauses that appear here, with a view of having a better understanding with you as to just what is intended.

The first section of this is intended to give the City of Chicago broad powers; powers of local government and of corporate action adequate for all municipal purposes, and a clause is added to the effect that it shall be liberally construed; in other words there is to be a reversal of policy; heretofore powers had to be expressly delegated. Now, under the new Constitution it is proposed that these powers shall be granted generally and will be subject only to such limitation as may be found in the Constitution or by general law. That brings me to the question of general law to which there was much discussion. I want to state to you that in one or two particulars I do not quite agree with the views expressed by Professor Freund. I do not want to start any discussion here, but I will simply state with regard to those matters what my own view of these provisions is. With regard to this distinction between powers and organizations, I have only this to say, that as I read the clause on page 5 where it says that: "The following shall not be deemed to be ordinances relating to the organization of the city or the mode of exercising its powers so as to supersede the application of State laws" and the clause beginning: "Those which determine the extent of the powers possessed, or to be exercised by the city," but I understand that not to be a veto power nor a repealing power in the sense that the legislature cannot undo what the city has already done, but it is a reservation to the legislature of a power to limit the powers of the cities generally in the State. If before the legislature acts a city has adopted a charter and can go ahead performing the functions under that charter, my

understanding is that this will preclude the possibility of that being undone by the legislature. That however, is a matter which has to be considered more fully in committee and will be subject to that intensive study of which I have spoken.

In the second section there is a provision to the effect that, "Laws of the State relating to the organization of the City of Chicago and to the mode of exercising its powers may be superseded in their application to the city by or under a charter framed by an elective convention." Held in the city and the purpose is to permit the City of Chicago to adopt a charter which will take the place of a large mass of laws that now collectively form the charter of the City of Chicago. In other words, instead of having general State laws which apply to the city, laws which relate to cities of more than 100,000 inhabitants, other laws which were passed under the constitutional amendment of 1905 and adopted by the city and still other laws which relate to parks and park districts and other local concerns within the city, instead of having all these it will be possible for the City of Chicago to adopt a charter which will cover all these different laws and when so adopted will become the law of the State, if you please, although local to the City of Chicago, the law that governs the City of Chicago.

Then in section 3 there are stated a number of laws and ordinances which shall be deemed as laws and ordinances relating to the organization and the mode of exercising powers. The reason for enumerating them was first, there can be no such exact definition of local municipal powers that the question of what is a local power will not be subject to more or less debate and discussion and consideration by the courts. There will be a difference of opinion as to what constitutes local law at all times, and instead of undertaking to define what a local law is, it will be entirely within the scope of the City of Chicago, within its control; it was deemed best to give the general powers as already expressed in section 1, and then to say that among the laws that shall be regarded as relating to organization, mode of exercising powers and so on are enumerated here, these five different powers, although there is an enumeration there, it does not exclude other powers and other authority vested in the City of Chicago by sections 1 and 2.

Charter provisions of section 4: "Charter provisions and ordinances which in accordance with the foregoing provisions supersede State laws in their application to the city, shall be general in character and shall not be altered by State legislation." That in part answers questions that were asked in regard to the exercise of powers of the legislature. That is to say, after the city has adopted its charter in due form by a convention properly selected, the State legislature will not have the right to change that charter, and that law will remain the law of the City of Chicago subject, of course, always to the constitutional provisions.

I have always spoken of the limitations that are placed upon the powers of the city in section 5, the limitation as to the powers possessed, and there is a second limitation which leaves in the State the power as to property rights and obligations of the city, and the third, of power to impose penalties.

Section 6 has already been spoken of, and that is with reference to the administration of courts of justice, and that has always been a State function, and even under our municipal court act the State is recognized as the soverign body which controls that court, even though financed by the City of Chicago and is a local court, and I think everybody understands fully what is contemplated by section 6.

In section 7 it says: "The city shall have power to condemn private property (including public utilities and the privileges or licenses held in connection therewith) for public use in accordance with law." In other words the legislature will have prescriptive procedure for such condemnation, but the city will have the right to condemn. I call your attention to the last sentence, as it has an important connection with something I will say later: "The power to condemn property lying outside of the city limits

shall be determined by law." In other words the city is given the absolute power to condemn within the city limits while the power to condemn outside the city limits must be determined by an act passed by the legislature.

The next section gives the city the power to own, acquire, construct, operate and let or lease for operation public utilities, and this is put in the negative; that is to say, this power shall not be denied by the law. That power exists and has been exercised to a certain extent. The object in this instance is to specifically state we have power, and that this power was not taken away, but regarding the last sentence I just read, taken in connection with that, it gives the city the power to control a metropolitan area for the purpose of establishing and operating public utilities and it can extend its activities beyond the city limits by operating under such laws as the State may see fit to give it with relation to condemnation.

The balance of section 8 is concerned with the exercise of the authority to contract and with legal rates; in other words it restores to the City of Chicago those powers relative to its public utilities that were taken away by the public utilities act of 1913. That, of course, is one of the principal features of this entire article. The restoration of this power which the City Council wants to get back and wants to have lodged in the City of Chicago and not in a State body. There will be no misunderstanding with regard to the language used in that particular point. The last sentence to the effect: "No law shall be passed by the General Assembly granting the right to construct and operate a public utility requiring the occupation of city streets for permanent fixtures without requiring the consent of the city." That is an amplification which limits the use of the streets so far as the streets railways are concerned in this way; this limits it with public utility, the streets cannot be used by any public utility unless consent is obtained from the proper legislative authority of the city.

Section 9: "No State law shall be regarded as general which by reason of the conditions of its application is operative only in the City of Chicago." The power to enact legislation applied to cities of over 100,000 is practically taken away from the legislature unless the city consents, as there is a provision made for it in the next section; the laws of the legislature will have to be general, they cannot be directed at the City of Chicago; they cannot legislate apparently in the shape of general law, and still have it made applicable to the City of Chicago, unless the City Council by resolution accepts the same.

Section 10 provides for that; "No law shall be questioned by reason of not being general if the City Council by resolution shall accept the same." If the legislature does pass such a law and the City Council accepts it, then the question cannot be raised as to whether or not that is general legislation.

Section 11 provides for the consolidation of all quasi-public bodies within the City of Chicago, except the county; that is to say, there can be a consolidation of the city with the park districts, with part of the Sanitary District inside the City of Chicago, with the other taxing authorities there, the school board, the public library, the tuberculosis sanitarium, they can all be comprehended in one municipal government by section 11, but the county under that section cannot be included. We deemed it wise to make a separate section in reference to the county so in case any obstacle arose in regard to county consolidation there would still be left that consideration, the local authorities within the City of Chicago. Provision is made for districts as lie outside the limits of the City of Chicago.

Section 12 provides for consolidation between city and county, and there is one of the propositions that caused a great deal of discussion, and this draft represents a compromise which it occurs to me is ample for all purposes; it makes it possible to accomplish consolidation with the county, and in connection with section 11 it makes it possible to consolidate all local government within the territory of the City of Chicago; it makes it possible to separate that part of the county outside of the city from that part within and to create the city and county of Chicago. Of course, there

will have to be legislative enactment which will provide for the method in which this shall be done.

Now, we come to section 13: I am free to say I thought this morning that the discussion or questions rather that were asked went off on a sort of tangent on this proposition. We provide in the first paragraph of section 13 that the General Assembly may vest the corporate authorities of the City of Chicago with power to make local improvements by special assessments or by special taxation of contiguous property, or otherwise. That is allowed by the Constitution at the present time in all municipalities so there is nothing new in that. I want to say right here that the question of exercising condemnation is one that was considered more or less in this connection, but it was decided to let that rest for the time being, until we saw what the attitude of this Convention is with regard to exercising condemnation with regard to State-wide proposals, and it may be determined later on whether it is necessary to have such a provision in this home rule article. I think it may be taken for granted there is a very strong sentiment in favor of exercising condemnation in the case of local improvements.

Next we have the provision that the General Assembly shall not limit the annual general tax on real or personal property by reference to the rate of taxation imposed by other authorities exercising powers of taxation over property in the City of Chicago, and any such limit now existing shall become inoperative. That in plain language is doing away with the Juul law. The Juul law is an unscientific method of scaling down taxes. If the tax rate is too limited, so far as taxing authorities are concerned in my opinion it should be done by limiting the rate which such taxing authorities may levy prescribing a minimum rate, and not by a process of qualification which operates to raise one body at the expense of another; the scaling down process worked out very badly; it has tended to extravagance rather than to economy. The various taxing bodies that were affected have prepared budgets and made levies that were far in excess of what they needed in anticipation of being scaled down, and the point to this paragraph is that the City of Chicago wants to get out from under this process. The next proposition is the one I spoke of where the questioning lead to something which was not in this draft. This says: "The City of Chicago may fix the limit of the annual tax rate on real or personal property in excess of the limits prescribed by law with the approval of the Governor" and so forth. There is nothing whatever said about an income tax. Professor Freund in answer to a categorical question by Mr. Mayer (Cook) stated in his opinion there exists an inherent power in the city to levy a tax, and that in case there should be a provision in the Constitution of this State which throws the matter of income tax wide open that that power would be lodged in the city as well as in the State. I do not want to go on record as disputing that proposition. He may be right on that; I have looked on the power of the city to tax as being derived from the State, unless there is specific authority given to the city to levy a tax it cannot levy a tax, but whether correct or not the fact still remains the income tax proposition to which there was so much discussion this morning is not in this article at all; it was not contemplated at the time it was drafted there should be levied a rate on real or personal property in excess of what the rate is prescribed for other cities under certain conditions. Now, assuming that Professor Freund is right, and if a wide open income tax proposition is inserted in the Constitution it will apply to the City of Chicago as well as the State, all there is to that, it will have to be read in connection with the excess rate authorized say on real or personal property.

In other words if the provision here is adopted the city will have the right to levy an excess rate on real and personal property, and if by implication that carries with it the right to levy an income tax, then it can exceed the income tax prescribed in the same way it can exceed the real and personal property tax prescribed here, it can raise the rate. It does not seem to me that such a complication as has been suggested, of the city prescribing a rate independent of the State and the State prescribing a rate independent of the city and then the two being added to the Federal rate as being burdensome or oppressive, can possibly arise under

this provision. This is simply a provision for exceeding the rate prescribed by law under certain conditions. What are the conditions? The approval of the Governor to be given or withheld upon taking into consideration the recommendation of the State Tax Commission, such recommendation to be made only after a public hearing and by written opinion. With respect to submitting this matter to the State Tax Commission, there was considerable difference of opinion before this method was determined upon. Some thought it would be wise to submit this to referendum if excess rate was to be levied, but after thoroughly discussing the matter it was felt that the Tax Commission would exercise a sufficient check upon the matter so that the excess rate would not be improvidently or without due consideration levied by the City of Chicago we would not have written into the Constitution a provision which would necessitate going to the people and having an expensive referendum whenever it was found necessary to levy a small amount extra.

It must be plain to you that such a provision might carry sometimes when there was not a great necessity for it, and it might fail when there was a great necessity for it, depending upon the popularity of the idea and the whim of the people. I think the people can be trusted in the long run on every proposition, but at the same time on matters of convenience very often involving a small raise, it did not seem to be a practical proposition to go before the people on every item and by failing to do it by constitutional enactment.

The next paragraph in that section simply provides the length of time in which such an excess maximum rate shall be in effect.

The fifth paragraph provides that this maximum rate so fixed may be inclusive or exclusive of taxes levied to meet indebtedness or interest thereon, as the ordinance may determine. That is perfectly plain.

The provision in paragraph 6 is practically a restatement of the present constitutional limitation on the rights of the General Assembly to tax the people of the municipality. "The General Assembly shall not directly or indirectly impose upon the City of Chicago or the inhabitants of property thereof, any taxes for municipal purposes, nor create or provide for the creation of municipal corporations, within the County of Cook, having taxing powers so as to include any territory of the city or enlarge or increase the taxing power of any such municipality except with the consent of the City Council." It is an enlargement of the present inhibition against the imposition of taxes by the legislature on the people of that municipality. It is perfectly plain, and I think it is one that will appeal to the gentlemen who compose this Convention as being just to the people of Chicago.

The 7th paragraph provides: "Where an act of the legislature of the State requires governmental functions to be carried out in the city which impose a new or additional financial burden upon the government of the city, the city may with the consent of the State Tax Commission, to be filed with the City Clerk, provide for the required expense levying a tax in addition to the taxes then authorized by law." This requires new government function on the part of the City Council that takes money to carry on. The city may levy a tax in addition to its regular rates for the purpose of carrying on that particular function. It cannot do it without submitting the matter to the State Tax Commission, the same question whether it should be submitted to the people or not was under discussion there, and it seems to me this is a very reasonable way to arrive at a determination whether or not an additional tax shall be levied for additional functions prescribed by some law which requires additional revenue.

Section 14 relates to the borrowing power of the city.

The first section simply gives it authority to borrow money for corporate purposes and issue bonds.

Section 2 provides for the referendum as to all arrangements. Those provisions of the law exist now, the first thing in the Constitution and also established by statute, the second being established by statute.

The third paragraph provides for the issuance of bonds which shall be retired within 50 years. The present limitation is 20 years. Of course the

question of whether 20 years or 50 years is a proper limitation is for you to determine. I know there is a strong sentiment on the part of the people who have to do with the selling of these bonds that a lower rate of interest can be secured for the city if the bonds are of longer time than 20 years. That may or may not be the case. There are men in this Convention who know much more about that than I do, I am sure, but at any rate all that this paragraph is intended to do was to provide for the retirement of bonds. At the present time the city is using all its bonds in serial form so each year a certain amount of the whole is retired. That percentage is as near equal as it is possible to make it, so that the burden is distributed over 20 years, and there is a general impression that that attempt should be made by us to levy bonds which are payable over a longer period than 20 years.

The fourth paragraph provides for an aggregate indebtedness to be fixed by city ordinance. This simply expresses as a stated amount, or expresses as a percentage of the taxable resources of the city. The difference between that and our present Constitution with respect to aggregate indebtedness is that the present Constitution fixes an absolute limit, a percentage of 5 per cent on the assessed valuation. The experience of the last 30 years or more has been to the effect that whenever it was desirable to exceed this limit some scheme of getting around it was found. In general it was the creation of some new municipality, but the fact remains that limit of 5 per cent has been exceeded for municipal purposes, and the intention here is to fix it by an ordinance instead of by having it fixed absolutely in the Constitution.

The fifth paragraph provides for referendum, and that provision fixes a limit of indebtedness in case a sufficient number of people desire to have a referendum and act in due time.

The sixth paragraph provides that such ordinance after it is once determined shall be unalterable for a period of 20 years. The period of 20 years was fixed upon as being about the time within which it would be necessary to have some stability. In other words, it it was possible to change that from year to year within a short time after it was established the city finances might become very much muddled by reason of the fact there is a change in debt limitation every little while, so it was considered by us that the period of 20 years, although that is a matter which is subject to more complete discussion and subject to your approval, and you may come to the conclusion that we have been entirely wrong in fixing so long a time. Of course there is much to be said on that proposition, because it might be highly desirable to change it within a much shorter period.

The seventh paragraph provides for keeping in force until such a limit is fixed, the present law with respect to the limit of indebtedness.

The eighth paragraph provides: "Loans incurred for the financing of income producing property of the city and secured by the pledging of such property or its income, or franchises or privileges necessary for its enjoyment, shall, to the extent that they do not impose upon the city any general corporate liability not be included in the limit of aggregate indebtedness fixed as aforesaid," In other words, if a municipal enterprise which is income producing is financed partly by the proceeds of bonds that are a general obligation of the city and partly by the proceeds of bonds that are a lien on the property only, the amount that has been raised from bonds that are a lien on the property only the amount that has been raised from bonds that are a lien on the property only is not to be included in the aggregate beyond which the city cannot go. If it sees fit to issue 50 million dollars of bonds which are a general liability of the city, and 50 million dollars that are secured by property that it has built or about to construct for street railway purposes, then to the extent of that 50 million dollars that is a lien on the property, the aggregate is not increased.

Now, there has been a great deal of discussion on this point and it seems to me as though there was a misunderstanding with regard to this provision. All this means is that the aggregate beyond which the city cannot go in incurring debt is fixed except to the extent that it exceeds it

where it issues its obligations on income producing property. It does not necessarily follow that the income producing property would not be operated from the general funds. The law now is that the city may operate certain income producing properties from its general fund. There is no change with regard to that, but this will provide that in case bonds are issued which are limited in that way, the city may exceed the debt limit which is now fixed. That is all there is to that.

The question was raised as to whether or not the city could divert its general fund so as to operate these utilities. I suppose it is conceivable that such a thing could be done, but now it would be possible to do that in case the ordinance in the first instance provided that the operating expenses should first be paid and the principal and interest on the bonds should be paid with what remains, is more than I can understand. And that I take it for granted will be inserted in every ordinance. I do not suppose that any legislative body will be so unwise as to make a provision for maintaining and operating a public utility which is financed by obligations on the property itself, and not general obligations of the city without making some provision in that for having that obligation paid out of the net returns after the operating expenses are taken out. If that is done, of course there is a possibility of their doing just what has been suggested here, but I think it is dealing with a speculative possibility which is hardly to be considered as imminent. One thing more with reference to the submission of matters to popular referendum which is left to the city under this article. Of course, the city should have control over the ordinances that it passes. It should have the right to submit such ordinances to referendum if the City Council deems it proper to do so. At the present time there are only two classes of ordinances that can be submitted to referendum except under the public policy provision of the statute. Those two kinds of ordinances are with relation to the granting of rights to street railways or other railroad companies and bond ordinances. Those are the only ordinances which can be submitted to referendum. All that this provision means to do is to give the City Council the right to determine when it passes ordinances whether or not such ordinances should be submitted to referendum. It is deemed highly desirable to get the expression of the people on ordinances passed before the City Council, and such a provision it seems to me ought to be conceded to the City of Chicago under any circumstances, and it is deemed proper to place that in the home rule article.

I ask your pardon if I have gone into some details here which were entirely unecessary. I am satisfied if you had carefully read these different provisions that you would have gathered the same ideas from them that I have expressed. Nevertheless, there seems to me to be a great deal of misapprehension as to the meaning of some of these provisions, and it was on account of that that I took the liberty of going over these various provisions and trying to explain them to you so you will understand what we have in mind when we considered them, and what the City Council had in mind when it adopted these provisions. I think that is all.

Mr. SUTHERLAND (Cook). Mr. Chairman, if I am permitted, I would like to ask a question with reference to the income tax: In your opinion, if this State through its Constitution should provide, as some other states have, an income tax to be established by general law, would it be possible under this special article for the City of Chicago to levy in addition to the State tax, this by general law, a special additional income tax of its own?

Mr. HORNSTEIN. I do not think so. That is the way I viewed this article. I somewhat disagree with Professor Freund on that proposition, but I do not think this can be construed to give authority to levying any additional income tax when it is limited to taxing of general personal property.

Mr. SUTHERLAND (Cook). I call your attention to sub-section 6 of section 13 on page 6, which is taken from the present provision I think, of section 10 of article 9 of the Constitution. Would not that provision, just as it stands preclude the City of Chicago enjoying its due proportionate share of such revenue?

Mr. HORNSTEIN. That is on the theory it would be levying a tax on the City of Chicago for municipal purposes. It is quite possible that that would be construed in that way.

Mr. SUTHERLAND (Cook). Another question: With reference to subsection 2 of the same section. That in effect repeals the Juul Law as you say?

Mr. HORNSTEIN. Yes.

Mr. SUTHERLAND (Cook). In other words it is suggesting that this Convention perhaps do something which it is now in the power of the General Assembly to do?

Mr. HORNSTEIN. It proposes to take the City of Chicago out from under the provisions. If the Convention sees fit to adopt this in just this form it will have the effect of abolishing the Juul Law entirely, and will maximum of the cities and villages' act also?

Mr. HORNSTEIN. Not unless the power is exercised that is. given in paragraph 3 of that section.

Mr. SUTHERLAND (Cook). Paragraph 2 would not operate to repeal that so far as the City of Chicago is concerned?

Mr. HORNSTEIN. Not until an ordinance is passed in connection with the provisions stated here.

Mr. SUTHERLAND (Cook). But it would be possible if that provision stood and were made a part of the Constitution and the Constitution were adopted for the City Council, subject to the approval of the State Tax Commission to avoid the necessity of coming before the General Assembly in 1921 seeking additional revenue?

Mr. HORNSTEIN It would be possible to do that, yes.

Mr. SUTHERLAND (Cook). In 1913, at the urging of a Chicago man, who was then Governor, the General Assembly enacted a law creating a State commission to regulate public utilities, including the public utilities of the City of Chicago. At that time, as I recall it, there was no great protest from the City Council of Chicago against the passage of an act in the form in which it was finally given, but since that time there has been a great deal of protest from the City Council and other city authorities against the operation of that commission. Under sub-section 3 of article 13, subsection 5 of article 14 puts the City of Chicago under the provision of another State commission. The General Assembly is now offering to repeal or modify at any time the act of 1913 creating the State Utilities Commission. If this were put into the Constitution it would take an amendment to the Constitution to change it in case there should be similar dissatisfaction to this piece of machinery. Do you think it is desirable to put this piece of machinery in the Constitution?

Mr. HORNSTEIN. Let me say first with respect to the introduction that you made to that question: If I remember correctly there was considerable protest on the part of the City Council against the passage of the public utilities act in 1913 in the form in which it was passed. There was no particular objection to it in case there had been a separate public utilities commission for the City of Chicago provided for, but in the form passed there was considerable protest.

Getting down to this question of whether it is wise to insert a provision here which places this power in the hands of a State commission, I have only this to say: That it might be more desirable to leave this power in the hands of the City Council and the people of the City of Chicago, but it was deemed impracticable to do so, principally for the reason that it was thought that the members of this Convention would require some sort of check so that the power should not be exercised too freely and without due consideration. The question before us when we were debating these matters was whether it was advisable to leave that in the hands of the State Tax Commission or some other body which must exist in order to equalize the taxes of the State, and perform certain functions with regard to the taxes, or leave it to the people. We thought leaving it to the people would be a cumbersome method, and this was deemed the best method to pursue under all the circumstances considered.

Mr. SUTHERLAND (Cook). Don't you think it might be better to leave it in the hands of the General Assembly to try the experiment out, so if the operation proved unsatisfactory the General Assembly might deal with it as conditions seemed to demand?

Mr. HORNSTEIN. I don't think that would be exactly in harmony with the general scheme of home rule. That contemplates that there shall not be an intermediate legislative body which should have part control over the affairs of the City of Chicago. That this should be directed by its own legislative body, and there should not be another legislative body having control over it as to the particular functions that are prescribed here.

Mr. SUTHERLAND (Cook). With reference to sub-section 8, the last section on page 7: Does it not frequently happen that different utility concerns default on the interest on their bonds, and is it not conceivable that a municipally operated utility might fail to make sufficient income to pay its complete operating expenses and default as well on the interest on the bonds?

Mr. HORNSTEIN. I presume so.

Mr. SUTHERLAND (Cook). You have had a great deal of experience in advising the financial committee of the City Council, Mr. Hornstein. Is it not a comparatively frequent practice by various devices to make appropriations from the corporate funds? Say for example to the operation of the water department, by providing that certain staffs in the water department, such as the engineering staff, for example, shall be in part financed by the corporate funds, and funds are diverted?

Mr. HORNSTEIN. I do not think you have got that exactly right, Mr. Sutherland. If there is any tendency to divert funds it is to divert them from the water fund to the general fund. It works the other way. Usually the general fund is very low, and there is plenty of money in the water fund and the temptation to draw on it is strong. Nevertheless, I think the City Council has from year to year adopted a scheme by which only a certain proportion of the expenses of the city as is properly chargeable to the water fund is charged to that fund. It may not come out to a cent, but it is approximately correct.

Mr. MILLER (Cook). You have differed with Professor Freund as to whether or not the City Council would have the right to levy income tax in addition to the State income tax. Where in this proposed article do you find any limitation upon the powers contained in sections 1 and 2?

Mr. HORNSTEIN. I thought I made myself clear on that proposition. The difference between Professor Freund and myself is, that Professor Freund assumes that the city has inherent power to tax to provide revenue for its maintenance. I do not care to debate that proposition, but my view is that under the law in this State, as we have always construed it, there is no such inherent power; that the only power to levy taxes is derived from the State, and that in case there is no express power given here to levy taxes that the City of Chicago has no such power.

Mr. MILLER (Cook). Your view would be that this article as drawn gives the City of Chicago no power to raise any money by taxation?

Mr. HORNSTEIN. Yes, it does give it.

Mr. MILLER (Cook). Under what section?

Mr. HORNSTEIN. It says: "The General Assembly shall not limit the annual general tax on real or personal property by reference to the rate of taxation imposed by other authorities exercising powers of taxation over property in the City of Chicago, and any such limit now existing shall become inoperative." It does not expressly confer the power here, but by general law to all cities and villages to levy taxes.

Mr. MILLER (Cook). Suppose this is adopted, what law do you say gives the power to levy taxes?

Mr. HORNSTEIN. The present law, the cities and villages act. The power given to the city to levy and collect taxes under article 8 of the cities and villages act.

Mr. MILLER (Cook). Don't you think this first section giving the City of Chicago powers of local government and of corporate action adequate for

all municipal purposes and this grant of power shall be liberally construed would give it the right to levy taxes?

Mr. HORNSTEIN. I do not think it would have the right to levy taxes without some express provision of law. Professor Freund may be just exactly right, that power may exist, but it does seem to me that unless we have some law which gives the cities and villages the power to levy taxes that we would be without the power to levy them.

Mr. MILLER (Cook). Under this proposed article would the City of Chicago have the right to mortgage any public utility owned by it unencumbered?

Mr. HORNSTEIN. If it desired to raise additional money, would it have the right to issue notes or bonds or other obligations that would be a lien on that property?

Mr. MILLER (Cook). Yes.

Mr. HORNSTEIN. So far as income producing property is concerned.

Mr. MILLER (Cook). Say the water works system for instance.

Mr. HORNSTEIN. I think it would have it under this, although there may be some question as to that, because there is a distinction between the water system which has certain features about it which makes it a governmental activity as distinguished from a private enterprise, and there may be some doubt as to that, but I think it would be able to issue those evidences of indebtedness that would be a lien on that property.

Mr. MILLER (Cook). If that is so, if it issued 40 millions or 100 millions of bonds on the Chicago water system, that would not be included in its five per cent limited indebtedness?

Mr. HORNSTEIN. No.

Mr. MILLER (Cook). And that money might be used for any corporate purposes so far as anything here prohibits it, might it not?

Mr. HORNSTEIN. No, I do not believe they could use that for any other purpose, except for the purposes of the water fund.

Mr. MILLER (Cook). What is there in this proposed article that would create that limitation?

Mr. HORNSTEIN. I do not think there is anything but the general laws at the present time which authorize the construction and operation of water works, control that.

Mr. MILLER (Cook). You have no specific statute in mind on that?

Mr. HORNSTEIN. I have in mind the general provision of the Chicago charter which authorized the construction of the original water plant. I have in mind that, I think it is in the charter of 1863, and there was some subsequent enactment, all of which gave it authority to issue bonds for that particular purpose, for the maintenance of water works, and issue certificates.

Mr. MILLER (Cook). But no lien on the water works, however?

Mr. HORNSTEIN. No.

Mr. MILLER (Cook). I am speaking of placing a mortgage on the water works, issuing funds for general municipal purposes.

Mr. HORNSTEIN. I do not think there is any inhibition on this, if you look on water works as income producing property of the city.

Mr. MILLER (Cook). Which you do?

Mr. HORNSTEIN. I follow the opinion of the Supreme Court on that which held that is a private enterprise that the city runs in its private corporate capacity, and there is some distinction between that and a public utility it would operate, such as a street car or telephone system or utilities of that character, because there is a connection between the water works system and the government functions of the city.

Mr. O'BRIEN (Cook). Have you given any thought to the other taxing districts coming under the Juul law? What the effect on Chicago would be, what would happen if the City of Chicago were taken out?

Mr. HORNSTEIN. I think that question has been partly answered by me. I think it is entirely possible to relieve the City of Chicago from the necessity of being scaled without relieving the other taxing authorities, if you see fit to keep that limitation on them. In fact, one or two of the

taxing authorities now are in just that position, that their rate is not scaled although they are put in the total for purposes of scaling. You have to adjust the other rates if you abolish the Juul law entirely. If you see fit to continue to operate under authority of the Juul law, so far as other taxing bodies are concerned, you can put that in and scale the other taxing bodies.

Mr. O'BRIEN (Cook). That would make the result the same.

Mr. HORNSTEIN. The other rates would necessarily have to be adjusted. I do not call to my mind just at this moment just which of the taxing authorities is in that position, but you probably remember that one of them is in that position. You would have to put it in the scale, but you cannot scale it.

Mr. O'BRIEN (Cook). The City of Chicago, The Tuberculosis Sanitarium and the school and building funds and the bonds of the City of Chicago are exempted.

Mr. HORNSTEIN. I am not speaking of the exempted ones, but one of the taxing bodies whose rate is put in the aggregate for purposes of scaling, but is not scaled down.

Mr. O'BRIEN (Cook). The Library could not be scaled below a certain amount?

Mr. HORNSTEIN. You do not get me yet.

Mr. OBRIEN. The police pensions are not scaled.

Mr. HORNSTEIN. They are not added in, the Mothers' pension, that is what I had in mind.

Mr. O'BRIEN (Cook). It is in the aggregate now.

Mr. HORNSTEIN. Yes, but there is a minimum established, and for a while that had to be put in the scale, but was not scaled.

Mr. O'BRIEN (Cook). Reverting back to the income taxes; have you given any thought as to the proper distribution of that tax in the event the City of Chicago determined to adopt it and the legislature gave them the power to adopt it?

Mr. HORNSTEIN. No; I have not given any thought to that especially. Mr. Sutherland raised the point in the case the income tax was levied, as is done in some states and then distributed among the different municipalities according to taxable property or according to population that it would be contrary to one of these provisions in this draft, that the legislature shall not impose taxes on the people of the City of Chicago for municipal purposes. Now, I think there is a great deal to that point, and it seems to me as though it could not very well be done that way. In case it was found desirable to levy an income tax that power would have to be given to the municipalities themselves and not reserved to the State to be distributed among the municipalities.

Mr. O'BRIEN (Cook). It has been suggested that that tax be distributed in ratio of the taxes levied from each municipality. Is that a fair method of distribution?

Mr. HORNSTEIN. I question very much whether it is, because in its last analysis that will be distribution according to the amount of property in the district. Income may not be just the same, there may be quite a difference as to incomes, that is, there may be a different ratio between income and population and taxable property and population. I think I am beginning to get what you have in mind. Where the tax is levied it should be levied within a certain municipality and that tax used within that municipality, is that the idea?

Mr. O'BRIEN (Cook). Whatever taxes the municipality wants to distribute.

Mr. HORNSTEIN. The only reason for levying taxes at all is the necessity of the community. If a man lives in the community where the necessities are greater than in another, everybody that is in that neighborhood or community should bear the taxes. The mere fact of his having property in that community and living outside of it does not put him within the people on whom the tax is levied.

Mr. O'BRIEN (Cook). For instance Chicago levies 37 millions of the 75 million dollars of tax; is it your idea that the City of Chicago should get 37/75th of that tax?

Mr. HORNSTEIN. I do not know whether that is an equitable distribution or not, but I think perhaps it would be, because that represents practically one-half the taxable property of the State, and I think the population of Chicago would come pretty near being one-half of the State, but whether it is population or taxable property it would work out the same. I have in mind also the obstacle that is in the way of levying an income tax by the State and then distributing it to the cities. You would have to change this provision in the Constitution which says that the State cannot levy a tax on the people of any municipality for municipal purposes, you would have to change that provision if you wanted to do it that way.

Mr. WALL (Pulaski). I call your attention again to subdivision 8 of section 14 of this proposal, where money is borrowed on the strength of the net income of a producing public utility, and where it is borrowed solely upon the strength of that income and payable out of another, and where perchance the income fails, as illustrated by Mr. Shanahan to the extent of $1,000,000, is not that a municipal debt by virtue of the contractural relations the same as any other municipal debt payable out of corporate funds?

Mr. HORNSTEIN. No, it is payable.

Mr. WALL (Pulaski). I say is it not a municipal debt on principal the same as any other municipal debt which might be payable out of corporate funds?

Mr. HORNSTEIN. I do not think so.

Mr. WALL (Pulaski). Is it a municipal debt?

Mr. HORNSTEIN. Yes, if you use municipal in its broad sense.

Mr. WALL (Pulaski). It is a municipal debt founded upon contract. Suppose there is a failure to pay by virtue of the inability to earn the money; would that not result in an open legal repudiation of this municipality to pay the municipal debt?

Mr. HORNSTEIN. I do not think so, any more than failure of a special assessment of a local improvement to produce the amount necessary to complete the improvement; that happens very frequently. That bonds issued by the city in such case is a municipal indebtedness in the broad sense of the word, is in the case you speak of, and yet the city cannot be held liable because the obligation was assumed with a limited liability.

Mr. WALL (Pulaski). In that case isn't it usually the practice to levy additional assessments, whereas in this case, where the public utility may go into bankruptcy, or where it may permanently cease and fail to pay the debt, would it not be then a permanent legal repudiation of that debt?

Mr. HORNSTEIN. I do not think so because the lien exists there, and they could foreclose on it; the parties holding the bonds may take over the property by due process of law, and if the property is worth 100 million dollars and the bankers would advance 50 million dollars for the purpose of financing it, and the city is unable to pay the interest and bonds out of the proceeds of that, the net proceeds of the operation of the property, the bond holders have the right to come in and take that property, and when they take the property over it extinguishes the debt.

Mr. WALL (Pulaski). There may be a deficiency decree.

Mr. HORNSTEIN. I do not think that is lawful, in case a contract in the first instance provided that was a lien on that property, and that only.

Mr. GREEN (Champaign). With reference to this plan of home rule, I believe that the delegates outside of the City of Chicago would be interested in certain fundamental inquiries, which perhaps Mr. Hornstein can answer, being a representative of the city government. As I understand the scheme of this proposed constitutional charter is for the delegation of two separate functions of government, in part, as legislative and certain of the police powers from the sovereign state to the city. Am I correct in that?

Mr. HORNSTEIN. Yes.

Mr. GREEN (Champaign). With reference to the police powers, is it to be understood by the delegates outside of Chicago that it is desirable with

the City of Chicago that that be delegated in constitutional form, which of course ties it up with exceeding difficulty of amendment instead of legislative grant?

Mr. HORNSTEIN. Yes, that was partly answered by Professor Freund. With reference to the police powers, of course there is no possibility of drawing the line between those powers which must be retained by the State and those which may be safely delegated to the city.

Mr. GREEN (Champaign). That brings me to this inquiry: Considering the question of public health, sanitation, for instance, and a hundred other things, too, which come within police powers, are we to understand that the City of Chicago, with all the unforeseen problems that arise in the police power, would prefer that this matter be handled by constitutional grant than a provision for legislative grant from time to time as the emergencies require?

Mr. HORNSTEIN. I wanted to answer that question. I think it is by all means preferable. The grant in this instance as I have started to explain cannot be made with sufficient definiteness, or that we can distinguish between police powers that are retained by the State and those granted by the city. Nevertheless there is a provision for giving to the city home rules powers sufficient for all municipal purposes, and it includes such of those police powers as are not limited by the State law. There is a limitation on the city's powers whenever the State sees fit to limit its police powers by enactments that govern the whole State, to that extent the city is curtailed so far as local regulation is concerned; it has those powers under this draft. One reason for desiring that is that the city desires to control certain classes of business, possibly it desires to license them and in order to secure the authority to do that it has come down here to the legislature and submits to the legislature that long section of the cities and villages act which contains enumeration of powers, which consists of 99 different clauses, and it is very difficult to secure any amendment to this large notation of powers of the city, exceedingly difficult.

Mr. GREEN (Champaign). My question implied there will be a legislative grant of home rule in the same manner as the constitutional grant; there would be a home rule charter, but it would be preferable, as I understand it, that it be done by constitutional grant rather than authority be given by legislative grant.

Mr. HORNSTEIN. When you come to that proposition, you mean that under the present Constitution with section 34 of article 4 of the Constitution, that is the home rule section of the Constitution which exists at the present time, you mean that the city can acquire practically all the home rule that it desires, and that some similar provision could be put into the new Constitution which will enable the legislature in some way or another to amend the city home rule powers?

Mr. GREEN (Champaign). Assume that the legislature could grant this charter in exactly this language in the way of police powers; do we outside of Chicago understand that the City of Chicago prefers it be done by constitutional grant rather than that authority be given to the legislature to grant it as a legislative grant?

Mr. HORNSTEIN. Yes.

Mr. GREEN (Champaign). That would carry with it necesarily, in order to support these things, the element of taxation. Is it the idea in levying taxes in that way that the City of Chicago would be bound by any classification of property which might be made in the general Constitution?

Mr. HORNSTEIN. I so understand it, yes.

Mr. GREEN (Champaign). Is there anything in this charter that would prohibit their changing the classification or the levying of taxes upon property that was under the general Constitution exempted, is there anything in this to prevent the City of Chicago from subjecting that to taxation?

Mr. HORNSTEIN. I may be wrong on that proposition, but I do not so understand it. I understand these revenue paragraphs to mean just this: That whatever plan of taxation is adopted by the legislature for the whole State in general, applies to the City of Chicago as well, and if it limits the taxes that the municipalities or cities and villages may levy, that it applies to the City of Chicago as well, until the City of Chicago exercises this power that is given it here to levy a tax in excess of the amount prescribed by statute. That is the way I understand it.

Mr. GREEN (Champaign). Considering for a moment the police powers: Then would it be your idea that under the exercise of the powers of government over police powers delegated to the City of Chicago one rule might obtain in Chicago and another rule in Peoria as the law of the State?

Mr. HORNSTEIN. To a certain extent that may be correct, but insofar as the State enacts police regulations that will stand for the whole State. Now, there may be this difference, that the City of Chicago as to matters that the State has not legislated upon might adopt regulations in the City of Chicago that do not exist in other cities.

Mr. GREEN (Champaign). Then it is your idea that the legislature might by general law take away the provision that might have been adopted by the City of Chicago by taking over the subject matter, the sovereign State taking it all back again.

Mr. HORNSTEIN. Yes.

Mr. GREEN (Champaign). Would that be by legislative grant and not by constitutional grant?

Mr. HORNSTEIN. So far as the police powers are concerned that must come through the exercise of the police powers; that is what I understand Professor Freund's distinction between organization and powers to be, that such powers as were exercised generally by the State for the whole State, they govern Chicago as well as other municipalities and the City of Chicago cannot legislate beyond them, it could not go beyond the power prescribed by the State in such matters by the legislature.

Mr. DAVIS (Cook). Will you give us the legal distinction between matters which come under the description of organization and those which come under the description of powers, or any other description?

Mr. HORNSTEIN. I can only tell you how I have always construed this: That is one of those things that I do not exactly follow Professor Freund. The way I have always construed this distinction was this, that so fas as any matter of governmental organization was concerned, the form in which the government is constituted, the number of aldermen, the classification or rather distribution of powers among the various city officials, all those things are matters of organization which are to be left under this draft to the City of Chicago without any outside interference at all. That so far as the powers of the city are concerned, it being impossible to draw a line between our strictly local powers and State powers the city must keep within the limits of the law as prescribed by the legislature. That is to say, the legislature has the right to enact into its statutes its police power, and insofar as it does that the city cannot go beyond them, the city must keep within that limitation. That is the power as to that is circumscribed. As to the manner in which it runs this government, runs its affairs there, those are matters of organization.

Mr. DAVIS (Cook). I take it you could not give us any statutory declaration in any State or judicial interpretation of the distinction we are not trying to draw. I have not heard of any, have you?

Mr. HORNSTEIN. I am not sure whether there is any such distinction made. I think the distinction drawn in this draft is more or less arbitrary.

Mr. DAVIS (Cook). It is theoretical, and the first time the distinction has been drawn by way of suggestion in the drawing of a Constitution.

Mr. HORNSTEIN. I do not know as to that.

Mr. DAVIS (Cook). Have you found any precedent?

Mr. HORNSTEIN. No.

Mr. DAVIS (Cook). It is to be admitted that if we adopt the section of the Constitution drafted by the city council that a number of questions

will arise regarding the very powers and the very limitations which we are discussing, that is to be admitted, I take it.

Mr. HORNSTEIN. The chances are there will be such questions.

Mr. DAVIS (Cook). With due admiration for all you have said and for all Professor Freund has said, I have not heard a convincing argument in favor of constitutional home rule, and I for one would like to be persuaded. It does not answer the question to say that constitutional home rule is preferable, I still ask why?

Mr. HORNSTEIN. I think I can answer your question in this way. If you want to avoid the pitfalls of judicial construction with regard to all these matters, why you had better stick to the old Constitution, because we have had fifty years of construction of that, and we know pretty well what the different clauses and paragraphs in that Constitution mean, and yet there is need for change, and you are here for that very reason, and whether you want to preserve the present system of giving to a municipality, or to this particular municipality of which you are a resident, whether you want to give to this municipality only such limited powers as are expressly delegated by legislative enactments or whether you want to give it general powers so it can help itself at all times to enact such legislation as it sees fit and is suited to its needs, if you want to continue the policy of giving it only express powers that are delegated to it, and circumscribe its activities so it cannot go beyond those; then legislative would probably be the best thing to give it, but if it is the intention to give the city general powers under which it can act without the intervention of any other legislative body, without being subsidiary to any other legislative body, derive its powers direct from the fountain head of the law in the State, then it should be given the home rule article somewhat similar to this in order that it might exercise those functions.

Mr. DAVIS (Cook). Maybe my question was misunderstood. We are not here on the supposition that every provision of our present Constitution will be changed by us. We are here to amend the present provisions of the Constitution and change them whenever there is a demand. To get down to the specific question of Chicago: It is a Chicagoan who is talking to you who is as interested as anyone. Please do not take my question as being in any way in opposition of constitutional home rule; this is a good time to come to understand each other. You will admit that even under your scheme you do not separate the City of Chicago from the effect of legislation by the General Assembly of Illinois.

Mr. HORNSTEIN. It could not be done.

Mr. DAVIS (Cook). You do not want to do it?

Mr. HORNSTEIN. I do not want to do anything that cannot be done. It will not depend on the legislature for certain powers and functions, but the legislature will limit the powers and functions of the city.

Mr. DAVIS (Cook). It will depend on the legislature to the extent that the legislature will place limitations?

Mr. HORNSTEIN. That is a better way of stating it.

Mr. DAVIS (Cook). In the grant of 1907, I think that is the year the charter was passed by the Illinois legislature, was it not?

Mr. HORNSTEIN. Yes.

Mr. DAVIS (Cook). Did or did not the General Assembly pass practically the charter that Chicago wanted?

Mr. HORNSTEIN. I think it did.

Mr. DAVIS (Cook). Then referring to history and to facts, we can say if the future is to be judged by the past, that the General Assembly has responded to the requests of Chicago?

Mr. HORNSTEIN. In a general way that is true, Colonel. When you get down to details you will find that is not always correct.

Mr. DAVIS (Cook). Isn't there an element of safety in that very thing to which you are prone to object at this time? Are you here to tell us that the City of Chicago has suffered in its growth or administration be-

cause of the failure of the General Assembly of Illinois to respond to the wants of Chicago?

Mr. HORNSTEIN. Nobody on earth can say that, but I do know there have been many, many times when there has been a general demand for some provision that was delegated to the City of Chicago which the legislature has not assented to; sometimes it has been necessary to come down session after session before a measure was finally put through that Chicago wanted. I do not want to be put in the attitude of complaining about the way the legislature has treated Chicago, because I have been rather boasting of what has been accomplished by the City of Chicago at the close of each session, and it would embarrass me very much if you put me in the attitude now of saying that the legislature did not do enough.

Mr. DAVIS (Cook). I think you and I can tell the General Assemblies of the past they have treated us fairly.

Mr. HORNSTEIN. I think as a general proposition that is correct.

Mr. DAVIS (Cook). You will realize that the City of Chicago is not the only one element in the State which will want its right or powers defined in the Constitution, not municipalities, but certain classes of people, certain interests will feel they would like to have their particular views incorporated into the Constitution. We as delegated to this Convention will have to guide our specific acts by a general policy, and I would like to get your opinion of what ought to be our general policy in connection with framing the Constitution?

Mr. HORNSTEIN. In respect to that, I do not like to say what your policy should be with respect to any municipality except Chicago, because Chicago stands on an entirely different footing from any other city in the State. So far as Chicago is concerned, I want to say to you I am whole heartedly in favor of constitutional home rule. There are many reasons for it. One reason that occurred to me while you were talking was that the matter is so broad that it cannot be taken care of except by legislative enactment covering a great many different subjects. For instance, this proposition of consolidation. Unless there is some provision made in the Constitution for home rule, the legislature will be called upon to enact so many different laws changing the present Constitution with respect to so many different organizations and bodies that the whole thing will be lost. Before we can accomplish anything decades will go by. My experence with the park consolidation act is one of the things which led me to this conclusion. The City of Chicago and large numbers of public spirited men up there have been working since 1905, at least, and possibly for some time before that to effect a consolidation of some of the local public bodies there, park boards with the city in particular, and that has undergone so many changes, it has gone through the legislature two or three times in different forms, that we have not accomplished very much.

Mr. MAYER (Cook). You think this Constitutional Convention will have the courage and the ability to act quicker to give the City of Chicago what you think it needs and desires than the legislature at its bi-ennial session?

Mr. HORNSTEIN. It will have the courage and ability to draft constitutional provisions by which, when the City of Chicago wants a thing, such as consolidation, it can go through with it and be done with it, and not have to drag it along session after session of the legislature and not accomplish anything.

Mr. SHANAHAN (Cook). Mr. Chairman, may I ask a question? What are the objections, if any, to inserting in the Constitution a clause providing that the General Assembly shall have full power to pass laws applicable to the City of Chicago?

Mr. HORNSTEIN. There is certainly no objection to it, unless you prefer to have the powers granted by the Constitution itself. If you cannot get that, why then the next best thing is to have such a provision as that, such as we have now.

Mr. SHANAHAN (Cook). As Colonel Davis suggested, why is it better to give it by constitutional provision than by delegating the full authority

to the General Assembly to make special laws applicable to the City of Chicago?

Mr. HORNSTEIN. I think this last illustration that I gave was right in point on that proposition, that before you can accomplish anything by the present method, we have a special provision which gives you authority to grant to the City of Chicago any law for the purpose of local self government.

Mr. SHANAHAN (Cook). Subject to referendum?

Mr. HORNSTEIN. Subject to referendum. It is so hard to work through a plan, and it gets so stale, and is subject to so many currents forward and back before it comes to final vote that it seems to be impossible to make progress under the present system. That is one of the things that so far as I am concerned makes me feel it is better to have constitutional home rule than to depend on the legislature for home rule.

Mr. MAYER (Cook). You think you will get it quicker?

Mr. HORNSTEIN. Yes. My impression is that the City of Chicago is large enough and is able to select a city council wise enough to take care of its local affairs without having a legislative body over it as a mentor to keep it within certain bounds all the time. I think the City of Chicago is able to take care of itself. It has gotten beyond the stage where it is simply an overgrown village, there is some stability to the city and about its legislative body. There are other reasons, too, and it seems to me altogether it would be a wise thing to have the home rule provision in the Constitution where it cannot be subjected to constant change and where the city is granted rights which it can depend on for all time to act rather than to depend on the legislature at its biennial session.

Mr. WILSON (Cook). Under this system would taxes be levied for the maintenance of the pension fund?

Mr. HORNSTEIN. That is a question that is subject to some doubt. My own impression is under this draft as it is here pensions would have to be levied by the city council. That question was discussed in committee the other day with Judge Hayes representing certain of the pension boards, speaking about the possibility of that being the effect of this draft, and he expressed himself as quite confident that our Supreme Court would hold that the pension fund created as present pension funds are created were for the benefit of persons who are acting in a governmental capacity and therefore agents of the State, and that it would be distinct from the functions of the municipality. That was his theory, and my notion is that this provision in here which puts in directly or indirectly and which changes city purposes, I think, to municipal purposes, has the effect of putting it within the power of the city council to levy those taxes. It says here: "The General Assembly shall not directly or indirectly impose upon the City of Chicago or the inhabitants of property thereof, any taxes for municipal purposes," and so forth. The change from the present Constitution is the putting in of those words directly or indirectly and which put in the word municipal instead of city and village purposes, which makes it municipal purposes. I think the substitution of those words in effect turned that power over to the city council instead of making it a State power as now, so in spite of a recent decision of the Supreme Court holding that those pension funds are distributed to the employees of the State in the sense of their holding positions that are governmental in their nature would not hold in case this was enacted.

Mr. BARR (Will). As a downstate delegate very anxious to favor granting Chicago all possible power of home rule that may be consistent with good government, I would like to ask you if there is any reason why you cannot obtain all of the rights and powers under legislative enactment providing the limitations are removed if there are such on the legislature as you can obtain under this constitutional provision?

Mr. HORNSTEIN. Yes, I have attempted to give a number of reasons.

Mr. BARR (Will). You said there were some other reasons?

Mr. HORNSTEIN. If pressed, I will give you the reason uppermost in my mind always, and that is this, that for many years it has been some sort of nightmare on the part of downstate members of the legislature that Chicago will get control over the legislature, would have a majority, and that there is the greatest likelihood of this Convention adopting a provision by which the representation from Chicago will be limited, and that I think will make it exceedingly difficult for Chicago in the future to get what it needs from the legislature. It seems to me if there is anything of that kind done, then Chicago at least should be given constitutional home rule so that it would not be compelled to come down here to seek from the legislature by way of favor what it has a right to. I did not want to mention that, but that is the most important thing to be considered about this whole business, to my mind. In return for limiting the representation from Chicago, as there is an extreme likelihood will be done, we ought to get home rule by the Constitution.

Mr. BARR (Will). Mr. Hornstein, your idea is, as I gather it, that you feel as though you would like to have the matter of home rule powers of Chicago settled in the Convention for the reason that the question of the limitation of Chicago's representation will probably be settled in this Convention, is that the idea?

Mr. HORNSTEIN. That is the most important of all the reasons I have, I think if this Convention is going to limit the representation of Chicago in the legislature, then by all means it should give Chicago home rule. I do not know what this Convention is going to do about limiting Chicago, but it has been in the air that this Convention is going to limit Chicago in its representation.

Mr. BARR (Will). We can be very frank with one another in our questions and answers. I think there is quite a sentiment from what I have heard. Aside from that question of policy, do you feel that you could not get all the power that Chicago might require, in fact all the power you are seeking under this provision of the Constitution by legislative enactment as you could by the act of this Constitutional Convention?

Mr. HORNSTEIN. I think by granting constitutional home rule you will make it much more practicable to get it quicker and without so much effort and so much delay.

Mr. BARR (Will). You mean you would get it in this Convention?

Mr. HORNSTEIN. We would get it in this Convention and then we could act for ourselves.

Mr. MAYER (Cook). Are not there a great many legal obstacles? Suppose the Constitution gave unlimited power in reference to Chicago, and the question arose of abolishing the Sanitary District, or consolidating the park boards?

Mr. HORNSTEIN. Those things would have to be taken care of in any event. Some of these things incorporated in the so-called home rule article or provisions we urge independentily in case it was proposed by this Convention to turn over the question of local government to the legislature and let them grant us home rule.

Mr. MAYER (Cook). Haven't you gone too far in admitting to Mr. Barr (Will) that you could get from the legislature all that the City of Chicago wants, even if the power is enlarged by constitutional provision in reference to Chicago?

Mr. HORNSTEIN. Perhaps I have; I thought of course he had reference to the powers of the city and the exercise in the future with respect to its own affairs.

Mr. MAYER (Cook). Take this question so strongly in minds of Chicago of the short ballot and the abolition of the many municipal corporations which overlap each other, and which overtax the people of that city; how can you get relief for Chicago except Chicago be given constitutional power?

Mr. HORNSTEIN. It would not be possible unless there was some provision in this Constitution you are framing for that purpose, and I think you stated it correctly when you say I possibly went too far in answering

that question. In my own mind I thought he had reference to the management of its affairs down there, without taking into account such things as consolidation and a number of other things which we would have to get constitutional amendments for in order to accomplish.

Mr. MAYER (Cook). Just eliminating all this discussion about the local police powers in Chicago, park boards and so forth, isn't it necessary, isn't it imperatively indispensible to get constitutional relief if it be desirable to consolidate these numerous and somewhat needless institutions in Chicago?

Mr. HORNSTEIN. Yes.

Mr. HAMILL (Cook). I rise for information. The committee has been sitting for something over four hours and has been interested in this discussion, and I am sure will want to hear the other representatives of the city. I rise to inquire whether it will be convenient to hear the other members of the committee tomorrow morning, and if it is I will move to postpone the further discussion of this matter until tomorrow morning.

ALDERMAN LYLE. Equally important as the chairman of the Finance Committee, Mr. John A. Richert, who has been 16 years a member of the City Council and ten years chairman of the Finance Committee, and who handles a budget of 50 million dollars a year, whereas the State budget is in the neighborhood every two years of about 50 or 55 million. He is a very important man in Chicago, and we would like to have you hear him with the same opportunity that you have had to hear these other gentlemen, and to inquire what our ills are. You have heard remedies and suggested agencies, we would like to have you hear Mr. John A. Richert, and it was his intention of speaking for 15 or 20 minutes, and I am sure you would rather hear him probably tomorrow, and if you would I am certain that he will stay over here, and if you pay as much attention to him as you have to these other gentlemen we certainly can go home feeling you have listened to us very attentively. I can say this after two terms as a member of this legislature here and in the City Council and on no occasion have I ever seen a legislative body, either of those bodies sit so attentively and listen with such eagerness to learn as you gentlemen have and certainly it is gratifying to us to have you do so. If you will adjourn and hear Alderman Richert tomorrow we would be glad to have you do it.

CHAIRMAN HULL. May I then put the motion that the committee now arise and report progress?

(Motion carried).

(President Woodward in the chair).

Mr. HULL (Cook). We ask leave to sit again.

(Motion carried).

Mr. TRAUTMANN (St. Clair). I move that the Convention now adjourn.

Motion prevailed and the Convention adjourned until Thursday, January 29, 1920, at ten o'clock a. m.

THURSDAY, JANUARY 29, 1920.

10:00 o'Clock A. M.

Convention convened pursuant to adjournment.

The President in the Chair.

Prayer by the chaplain, the Rev. Robinson.

Upon the reading of the Journal of the last session of the Convention, motion was made by Mr. Brenholt (Madison) that the further reading of the Journal be dispensed with and the same stand approved.

Mr. HULL (Cook). I wish to supplement that by adding, approving the Journal as upon the table, and also approving the Journal of a week before.

Mr. BRENHOLT (Madison). I accept that.

(Carried).

The Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, and introduction of proposals, all without debate.

THE PRESIDENT. In order to prevent confusion at the Secretary's desk, the President requests that each delegate in offering a proposal shall address the Chair and be recognized by the Chair and that no proposal be taken to the Secretary's desk by the page until the delegate has been recognized and until the Secretary has made the proper notations at his desk.

Thereupon the Secretary read proposals at large the first time.

Mr. TAFF (Fulton). I offer the following resolution and move its adoption.

RESOLUTION No. 15.

Resolved, That the President be and he is hereby authorized to appoint a competent person as Proof Reader for the Convention at a salary of not to exceed $150.00 per month.

Mr. HULL (Cook). This calls for the expenditure of money, does it not? I ask for a roll call.

Mr. MICHAL (Cook). Before you put that resolution I would like to ask what is the purpose of it; I request the gentleman to state the object of this, is it to employ a proof reader?

Mr. TAFF (Fulton). The printing department requires that someone read this proof as it comes from the printer, and there is no appropriation for the employment of anyone to read the proof; therefore, it becomes necessary for the Convention to authorize the employment of someone to read the proof for this Convention.

(Roll called. Yeas 82, nays 0).

Resolution adopted.

Mr. PEARCE (White). I offer the following resolution and move its adoption.

RESOLUTION No. 16.

Resolved, That the President of this Convention be and he is hereby directed to extend an invitation from this body to the Hon. Lawrence Y. Sherman and the Hon. Medill McCormack, now representing the State of Ilinois in the Senate of the United States, requesting them to appear before and address this Convention on Wednesday, February 25, 1920, upon the general subjects involved in the work of this body.

(Resolution adopted).

Mr. HULL (Cook). Is it not in order now that we go into a Committee of the Whole again?

Motion prevailed and the Convention resolved itself into a Committee of the Whole for the purpose of considering Proposal No. 41.

THE PRESIDENT. Mr. Hull (Cook) is designated to act as chairman of the Committee of the Whole.

CHAIRMAN HULL. I am requested by the chairman of the council committee on home rule to have Alderman Richert, for sixteen years a member of the city council, and for ten years chairman of its Finance Committee to speak on the subject of the Chicago Home Rule proposition. With your consent we will now hear Alderman Richert.

ALDERMAN RICHERT (Chicago). Mr. Chairman and gentlemen of the Convention. At the outset, on behalf of our delegation and on behalf of the Chicago City Council, and I might say on behalf of the entire people of the City of Chicago, whom these 70 aldermen represent, I wish to extend to this Convention our thanks and appreciation for the manner in which you have treated our representatives presenting to you the home rule provisions of the City of Chicago. We assure you we greatly appreciate the honor to be here and present Chicago's measures to you for consideration.

You have heard our constitutional expert, Professor Freund, and also heard from Mr. Hornstein, a member of the Corporation Counsel's staff, who has spent many years on Chicago's legislation. You have heard from them what the cures may be for the ills of Chicago. I am going to endeavor in a brief way to explain to you the ills that confront Chicago, and why these various home rule demands are being made.

As your Chairman said, I have spent many years in the City Council and have had charge of its city finances. The questions that have been presented to you for consideration, gentlemen, have been in the minds of the people of Chicago for many years. Home rule on public utilities, home rule on finance, and home rule, or how it shall operate its governmental agencies have been in the minds of the people of Chicago for many years and is not anything new.

The City Council has worked diligently on this subject in its concrete form for six months. It has had as advisor Professor Freund of the Chicago University, who by the way, gentlemen, has given his services gratis as a public spirited citizen of Chicago and has devoted evenings and days in this study without compensation and refused at all times to take compensation while he has been attending those meetings in Chicago. So you see he had only the interests of Chicago at heart, and I want to emphasize that the recommendations contained in our program drafted by him perhaps not all meet with his entire approval as to application and so forth, but as a measure of home rule the City Council has approved it.

Personally, I want to emphasize this whole thing. When I was called upon to present to the Constitutional Committee of the City Council what I thought were the needs of Chicago so far as home rule was concerned, I made it perfectly clear that Chicago should have a measure of absolute home rule regarding its finances, its public utilities, and I am going to endeavor to tell you why I have taken that stand, and why the City Council has concurred and the Committee on Constitution of the City Council has concurred also. The reason we could not get the absolute measure of home rule in our program was because when we got into conference with Professor Freund on this question of home rule he showed to us the many obstacles that we would be confronted with in order to obtain the same, and to our astonishment, realizing that he, being an expert on these questions of constitution, we have modified this provision to the extent that they are now presented to you in a modified form, believing that may be the best method by which we may obtain these home rule measures.

I will take the finances as the first proposition, and I will state you have in your delegation gentlemen, two delegates from Chicago who have been controllers of the City of Chicago finances for many years, and they

can verify the statements I made regarding the financial problems that Chicago has always been confronted with.

We started out with the idea and believing that we should have absolute home rule on finances for the City of Chicago, but immediately Professor Freund pointed out what would happen if the State of Illinois adopted one method of levying taxes and the City of Chicago adopted another method, because the State of Illinois levies taxes within the boundaries of the city, and for that reason a conflict would exist, so we modified that by stating that the State shall have the power to designate method of taxes, real estate, personal or what not, and the rate should be left to the discretion of the City Council with the approval of the Tax Commission, the result to be announced by the Governor to the people of Chicago. That is not an original idea that was in the minds of the City Council, but brought about by Professor Freund pointing out the obstacles.

Why do we want home rule on city finances? There are many reasons. One reason in particular is this, that the City of Chicago contains upwards of two and one-half millions of people and is represented by seventy men in the City Council, two representing a ward, which is the smallest territorial representation, but a great numerical representation, and a more direct representation; they are directly responsible to the people and will be held responsible by the people who sent them to the City Council to legislate on finances, and therefore if the responsibilities are placed on the City Council regarding the levying of taxes on the basis that the legislature may enact, that is the method, and the rate which may be altered as the method prescribed in this referendum, the City Council should have that power because of their method of representation.

Another reason, the City Council is so constituted to-day that all its actions whether in committee or on the floor of Council are so closely scrutinized, not only by the press but by the great number of public organizations, reform associations, organizations created for the purpose of seeing the kind of legislation that is being enacted by the City Council; we are continuously in session and the newspapers at all times indicate our activities by announcing them in the newspapers, and they are always keeping check on our activities and keeping them before the people of Chicago, and that is another reason why they should have the power of designating the rate of taxation necessary to run the affairs of Chicago.

Another reason, the City of Chicago within its corporate limits contributes to the various taxing bodies within the City of Chicago, within the City of Chicago's limits 74 million dollars; in the year 1918 to be distributed and expended by 24 different taxing bodies within the confines of the City of Chicago; out of that money, 74 million dollars, the City Council has only control over the taxes, amounting to only 13 million dollars out of the 74, that is all that the Council has jurisdiction over outside of the taxes necessary to meet the sinking fund and interest on bonds for public improvements, such as widening of Michigan avenue, the building of fire stations, police stations and public buildings. You can imagine, gentlemen, that 13 million dollars is all that the City Council has control of directly for the levying of taxes on two and one-half millions of people, and that alone is eaten up by the fire department and health department and all the other funds must come from miscellaneous revenue, and that has amounted to $8,000,000 a year from saloon licenses, but which was taken away, and the increase that was allowed by the legislature on account of that being taken away was eaten up by the increase in the cost of everything. Twenty-four taxing bodies, 24 different overheads, the lapping of one activity over the other and a multiplicity of the cost has made it an expensive proposition to the taxpayer of Chicago. Therefore you will find we ask you to give the City of Chicago the right to consolidate these activities to one or whatever number you might deem wise, so this multiplicity be concentrated upon a few, and that is the problem Chicago has been confronted with for years.

Mr. MAYER (Cook). Will you please tell us how many are employed in the 24 different bodies?

ALDERMAN RICHERT. I don't know what the total must be. The City of Chicago, outside of schools, on the 1st of January, 1920, had 18,000 employes, and they have added to that later, and the employes in the schools, which as you know numbers in the neighborhood of 9,000 employes; 350 park policemen in the City of Chicago that are functioning as policemen at the various parks and the employes in the parks added, and then on top of that the numerous number of employes engaged by the county, which is great in number, and the drainage board, which is also great in number, and another thing I desire to make clear to your honorable body is that the City of Chicago has 800 less employes now in the corporate portion of our municipality today than five years ago, and still our population has increased tremendously, but we have lost employes in the corporate activities of our city today until we have less than in 1915.

Let me tell you what has happened to the Juul law, what the legislature has done and what it was compelled to do. It had to adopt the provisions of the Juul law to help out. Why? Because Chicago's needs were not to be compared with those of a village or town or city of a smaller population.

Conditions are such that the demands are far different, a city of two and a half to three millions of people, you cannot apply the same ratio of taxation as in a smaller community. That has been proved by the fact the legislature has gone away from the provisions of the Juul law. I will give you an illustration of the conditions that prevailed last spring. When we were confronted with a loss of $8,000,000 of saloon licenses what happened? All the city employes, beginning with the police and firemen, formed delegations and came to Springfield to lobby in order to get the rate increased, and I want to say right here, if it had not been for a few friends in the Senate and the Speaker of the House, who knew the conditions in Chicago, Chicago would have been in a bad way to get relief for that measure, absolutely necessary on account of the loss of $8,000,000 of saloon licenses, and that increase that was granted through these various activities of lobbying, which should never have been necesary if a tax expert body had been in existence to work out the problem in an intelligent manner, there would not have been any necessity for lobbying down here. The trains were crowded, and the halls were crowded with lobbyists, so much so that the Speaker appealed to me not to permit the people to come down here. When the responsibility of taxation does not rest upon the City Council, my experience has been that many times they do not give the attention to those matters as much as if the responsibility was on their shoulders. To illustrate: We have been told that we cannot, by action of the City Council, eliminate a certain number of positions that are created by ordinance except by two-thirds vote of the City Council. Now, you can appreciate, gentlemen, by eliminating positions and depriving a man of his livelihood, you know what lobbys have taken place to keep them at work, they do not want to lose their positions. If the financial committee recommended that certain activities were eliminated, if they were responsible for the levying of taxes, would they not see the need of eliminating that activity? They would not dare to go on record; the members, and the people of the City of Chicago would tell them where to get off when their time for election came up. What has happened? One of the most interfering pieces of legislation, financial pieces of legislation has eminated on account of the pension. As an illustration, the treasurer of the pension fund of Chicago has written to me numerous times saying, Mr. Chairman, come to the rescue of the police pension fund, it is exhausted. What has happened? The legislature from time to time modified or changed the provision of the pension as a make-shift only upon the request of a lobby of policemen or firemen urging the matter, because they are great in number in Chicago, and have more taxes levied for pensions, and sometimes they get it and sometimes not. Do you think the City Council, which has direct control over the activities of the fire and police, that they have not got experts upon the finance committee to go into these propositions and there ascertain from actuaries and what not the necessary moneys for the proper functioning of the pension for city employes? They surely would. What has happened to the city employes? I sat for the com-

mittee in Chicago many years. What happened? They were afraid to recommend to the legislature the actual finances necessary to propertly maintain the pension fund for the proper functioning of the police, fire and municipal pension fund. Why? Because they were astounded by the figures presented, and the people would say if the police and firemen are asking for an increase in wages, why don't you take it from the pension fund? We do not know whether there will be any money in the fund to maintain the pension.

In order to do certain things the legislature is good enough to void the provision of the Juul law in order to obtain certain sources of relief. Another experience: Many needs of Chicago, financial needs have been presented to the legislature; some have been granted, others have not, but those that have been granted were granted in the method that I have indicated here, which should not be necessary. For that reason Professor Freund has said, owing to the fact of the method of taxation, whether it be real estate, personal property or income, let the legislature state that method, let the legislature set the first rate and then let the City of Chicago and its various bodies prove conclusively through a body of experts whether there is any necessity for increasing the rate, and then as men and efficiency experts they would have to recommend whether a public utility—so many times the people of Chicago have voted upon the question of public utilities, they are well versed and as a community are better acquainted with public utilities and their operation than most any other municipality. When the question of public utilities and home rule was up the people of Chicago were told we had all the home rule necessary for the proper functioning of public utilities. Why, yes, we have the power, gentlemen, to take over the public utilities, but the people of Chicago were not always told that if you could take over the public utilities and leave them function by lease or what-not method of operation, they were not told that you have no other funds with which to take over except such funds you may have in your treasury, for which you have no other use, and that is the only money you can get. They even go so far from bonding a public utility which we own and costs the taxpayer 75 millions of dollars, and your present law does not permit us to borrow 25 million dollars upon that 75 million dollars security. Why? Because the Constitution will not permit us, it must come within the five per cent limitation which has been exceeded and therefore we have no power to function that activity if you desire to extend it 25 to 30 per cent. The average investor of public utilities on the outside, he knows when he invests his money in the public utility it is backed up by more value, but the City of Chicago with a 75 million dollar public utility cannot do it. You put the restriction on it and say you must put it within your limitation. That is one illustration. The people of Chicago have voted for municipal ownership, we have 25 to 30 million dollars in the street car fund which the people gave to the street car companies in fares and which they returned to the City of Chicago. That money is in a fund, a sacred fund which cannot be used for purchasing the public utility and is only about one-tenth enough to purchase them with; it is a joke; instead of having a four cent fare, we paid a five cent fare and that laid up the 26 or more million dollars in the treasury, simply drawing three million dollars in interest.

Mr. MAYER (Cook). How much was collected?

ALDERMAN RICHERT. 26 million dollars in securities, bonds that have been voted by the citizens.

Mr. MAYER (Cook). The City of Chicago has bought bonds itself, it is both debtor and creditor at the same time?

ALDERMAN RICHERT. Yes, we bought our own bonds at 100 cents on the dollar and saved the money rather than pay it as commission to the broker; that is the way Chicago has financed its traction fund. We have 26 million dollars, where is the other money coming from? Why was that money created? For the purpose of acquiring public utilities, and we are asking you gentlemen to give Chicago the power to borrow money for its public utilities of its own to the extent of making a law permitting it to

borrow to the extent of 25 to 40 per cent; a private concern can bid as high as 80 and 90 per cent and get by; why not let Chicago have the same opportunity of getting money on its public utilities that it now owns, and if it has public utilities that it desires to take over it should have that power, and we ask you to give us two things, one, to finance a corporation if we take it over by the value of the utility itself, which the banker or broker might say, I will give you 60 per cent upon that, and we want the Constitution to give us the power to get the other 40 per cent by a method of bonding that will go to a referendum and that will be included within the limitation that you gentlemen see fit to place upon it, except that the sinking fund and interest upon that public utility money shall come out of the earnings of that particular public utility, and not out of what my distinguished friend has pointed out, that it might be diverted from corporate funds; that is not the intention. It should come from the revenues of the public utility, and interest and sinking fund necessary to amorize that 40 per cent.

Mr. MAYER (Cook). Suppose it is inadequate for that purpose?

ALDERMAN RICHERT. What does a private institution do, a public utility functions the same as a privately owned utility, when you have mortgaged the entire utility——

Mr. MAYER (Cook). You cut your garment according to the cloth.

ALDERMAN RICHERT. That is what we have to do, the men will see that that does not occur. Many public corporations have made the mistake which applies in a business way to public utilities as well as every other business; why put more restrictions because of the fact that the City of Chicago or any other municipality operates or owns it, why should you restrict a city like Chicago any more than a private interest? The City of Chicago only asks you to give the public utility owned by it the same right as you would give a utility owned by private interests. Why not put us on the same footing at least as a privately owned public utility would be on?

Mr. MAYER (Cook). How many employes would there be if you counted all the men employed in the different public utility corporations?

ALDERMAN RICHERT. The street car company has 15,200 men, conductors and motormen, or did on the 15th of January of this year; then they have in the employ of the Chicago Surface Lines on the 15th of January of 1920 about 15,200 motormen and conductors outside the linemen and the other functioning activities of the street car lines of Chicago.

MR. MAYER (Cook). How many on the elevated?

ALDERMAN RICHERT. I presume between the elevated and the electric light and the telephone would equal as large a number as the city employes in their corporate activities. We are asking another thing, gentlemen. How we shall govern our city, whether by 30 aldermen, 10 aldermen, a president elected by the council or mayor elected by the City of Chicago, or what-not? Let the people by referendum decide what they want. I understand the experts in years gone by, who advocated the commission form of government, that now many of them I understand are regretting that it ever came into existence, and many of them are predicting that that method of legislation or of operating municipal affairs is a thing of the past or will soon be. They are going to devise another method and give it another name. All we are asking you is to put into the Constitution and to give us the right to designate by referendum how this shall be done, that is all. There has been so much said yesterday about police powers. As I have studied it, and as my committee understands it, gentlemen of the Convention, what we desire is what we call public welfare rights. Where do you derive public welfare from police power? That is the bone of contention. Let me give you an illustration of why we believe Chicago should have that right. In 1905 or 1906 I came to the legislature with an alderman named Biefus, the father of our small park system and Chicago's zoning system, and various public communities that exist in Chicago. I happened to be delegated to come to Springfield with this distinguished alderman, who died in the last few years, and we presented to the legislature a bill which gave to Chicago a certain measure of power for zoning. What has happened

since then? This is 12 or 13 years ago, and only recently the legislature saw fit to give Chicago at least a decent measure of home rule on the zoning question. That is a big problem, and it has been solved, and we are now engaging experts upon zoning in order to get a proper zoning law into effect that will guard Chicago's future, although I say that we are 50 years behind the times as regards zoning in Chicago, because Chicago's zoning proposition is a severe problem because of the fact of its great manufacturing and industrial activity, and we are hoping some decent measure of zoning may be given to us. I believe Chicago should have had that right long ago. When I came here to get this home rule on zoning, you would have been surprised to hear the various notions that entered into that discussion as to what would happen if the zoning system was created; they said you would drive this institution out of existence, this is a residential section because it happens to adjoin a railroad, and yet the system was in use all over the country; it is too bad we did not do it many years ago; should not Chicago have that right? That is what we call a welfare proposition, things along those lines, and that is how the city council understands where the distinction comes between the police powers and what are not police powers and has designated public welfare powers. Those are the principal things we are seeking to obtain.

Mr. REVELL (Cook). You just explained the difference between the welfare feature and the feature which would pertain to municipal ownership. I would like to ask if your committee has ever considered the vast number of employes coming under municipal ownership as a menace, that is, the increased number, if the same line of procedure which now prevails should not be safeguarded? In other words, I may be mistaken, but I believe that the employes of the City of Chicago today, the 18,000 employes, to say nothing of the numerous other employes in the schools, are pretty generally organized along political lines; has your committee thought of any way to safeguard the interests of the City of Chicago should 18 or 25,000 additional employes be added to the pay roll, and these employes joined with the others in organizing along political lines?

ALDERMAN RICHERT. I will answer that. We have given consideration, and I will emphasize my answer in this way: We have given it thorough consideration. What we are asking and what we are mainly discussing is the question of ownership. Operation is the next question. What have we done if by chance the city wish to develop and operate, let us take it for granted we have all agreed upon ownership; now comes the question of operation. If you had put that question to me some years ago I would have said you are absolutely correct as to political activity of the city employes. My observation has been, gentlemen, that the greatest political activity that exists among city employes are those that are not civil service, those that the newspapers call temporary employes; it is those that the various members of the city bodies claim should not exist, but which unfortunately cannot be eradicated or eliminated because of the peculiar law. The Civil Service as we understand the law provides that when specially needed an employe may be designated as an employe under the temporary employment clause and he need not be a civil service employe, but here is what happens; the temporary employe under the law, sixty day employe, has become in some instances almost a permanent fixture; that has been my experience and the experience of the members of the City Council, over which the City Council has no control—the legislature has got the control of that and we have not got control. I can illustrate to you that it does not apply extensively to a civil service man because he is zealously guarding his rights as a civil service employe, and nine times out of ten when he has cause or has given cause for charges to be preferred against him they are trivial, and if they amount to anything he is removed from the service, but a political activity by concerted action of all city employes is not known to me or the City Council as a general proposition to any extent within the last number of years because of that fact. Even admitting you are right, that condition will exist in Chicago no matter what laws are enacted. It does not apply to municipal employes that are active

in politics, I am well aware of the fact in my own community, not only city employes but men of private corporations have been actively engaged, not individually, but collectively, in being organized in politics, more so than the city employes.

Mr. SUTHERLAND (Cook). What proportion of the employes in the city service are temporary appointees and what proportion are in the regular classified list?

ALDERMAN RICHERT. Twenty-three per cent on January the 1st were temporary employes; I will modify that by saying that of 23 per cent that were temporary, 90 per cent were unionized.

Mr. SUTHERLAND (Cook). In making up your annual budget, what is the greatest and most troublesome feature that the Finance Committee has to contend with, in your judgment?

ALDERMAN RICHERT. Lack of funds. (Laughter).

Mr. SUTHERLAND (Cook). What is your next greatest trouble, the greatest thing that is in your way when you make up the budget?

ALDERMAN RICHERT. The excessive demands of the heads of departments for activities that they claim are absolutely necessary for the proper functioning of their activities.

Mr. SUTHERLAND (Cook). That includes demands of employes in those departments for increase in compensation from time to time, does it not?

ALDERMAN RICHERT. Yes, and when the legislature was good enough last spring to relieve us on the loss on saloon licenses, the increased salaries almost ate up the amount that we had recouped from the legislature on account of the loss of saloon licenses, and this year the demands presented, two-thirds of which have been backed up by the press of Chicago, amounts to six millions of dollars.

Mr. SUTHERLAND (Cook). In that connection I am glad you brought up that point, Alderman. In that connection there was a strike of employes, talked of or threatened when you got back from your successful efforts at Springfield and were ready to pass the budget?

ALDERMAN RICHERT. They did strike, some of them.

Mr. SUTHERLAND (Cook). Some struck, others threatened and others talked about it?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). As a result, in making up your budget, were you compelled not only to raise the revenue on the new basis fixed by the General Assembly in response to that request, which would be of a continuing nature this year, and also used the revenue from saloon licenses which it was reasonably certain would not be renewed this year?

ALDERMAN RICHERT. Everybody except the chairman and a few members of my committee thought it was a joke to estimate and contemplate revenue on saloon licenses on any portion of 1919, and yet some of your reform organizations and other organizations of our city said it would be wise financing if you did that, because the saloons would be allowed to run two or three months, and we put that in our estimate, and we are short that amount of money. (Laughter).

Mr. SUTHERLAND (Cook). And the fact is that shortly after the appropriation was made, so far as salaries were concerned and compensation on a basis expected to be continued this year, and to that extent the deficit this year was inevitable?

ALDERMAN RICHERT. Yes, and the request now before the City Council amounts to six million dollars and yet more to come.

Mr. SUTHERLAND (Cook). Were there many civic organizations that thought the saloon licenses could be counted upon later than July 1st?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). I well remember the strenuous efforts you made to keep the budget within the continuing revenue.

ALDERMAN RICHERT. We have gone further than that, Mr. Sutherland, we even set aside $750,000 that we received from the saloons, and that is gone because of that method of financing, by taking the advice of others.

Mr. MAYER (Cook). How would you change it if you had absolute sovereign power, would it be better or worse? Would not there be just as many organizations trying to give you advice?

ALDERMAN RICHERT. That was after our rate was established that some of this has happened.

Mr. SUTHERLAND (Cook). I think Mr. Revell's question as to the political organization of employes had not so much to do with joining this party and that, as to their political force; they are able to threaten aldermen who do not meet their demands with political opposition when they run for office, on whatever ticket they run.

ALDERMAN RICHERT. I will give you a concrete illustration that happened recently, and show you how effective it is; as an unusual thing, within the confines of this Government, the doctors of Chicago, employed by the City of Chicago, have unionized the doctors; I never heard of such a thing existing anywhere in the United States, where the doctors have joined the Federation of Labor, and its president came to me during the last year and wanted to know why the doctors were ignored as to increases in wages; I said the City Council and Finance Committee believed that their functioning three hours a day, that the compensation they received was sufficient compensation for that amount of activity, and this individual said all right, if we cannot get satisfaction that way we will take it up in some other action, that is, in a political way, and I found out afterwards that was an expression of the individual and did not represent anything except his own ideas. I have asked many members of the profession and they said they knew of no such thing, they did not pass any such resolutions in their organization, it was simply the expression of the individual.

Mr. SUTHERLAND (Cook). Don't you think the potential political pressure of organized employes is given a great deal of weight by some of the less experienced aldermen, don't you think it is a pretty considerable force with almost any alderman that has not had long experience and long conviction as to his duties when it comes to determining the acts of the Council in making expenditures?

ALDERMAN RICHERT. That element you are talking about eminates in the wards where laboring classes predominate, like I have the pleasure to represent in the City Council, one of the poorest wards in the City of Chicago; they represent that class of citizens of Chicago, and let me show you what happened with that particular individual like myself, representing laboring classes, what would happen if the proposition confronted me and they were complaining of my action, raising the cottager's tax rate percentage, imagine what would happen to me if I did not have a good and valid excuse for voting so in case that poor cottage owner's taxes were raised without a reasonable explanation, you can imagine what would happen to me.

Mr. SUTHERLAND (Cook). Whenever the budget is made up, the Finance Committee room is frequented by many members of these unions now in the city government, is it not?

ALDERMAN RICHERT. 57 different varieties, yes.

Mr. SUTHERLAND (Cook). How many delegates do you have from the cottage owners in the territory described who look after their rights, to offset the pressure from organized employes?

ALDERMAN RICHERT. None.

Mr. SUTHERLAND (Cook). To what extent does the cottage owner when he gets a tax bill realizes that this particular official or that official is responsible for the unexpected increase he finds?

ALDERMAN RICHERT. I know that 90 per cent of the taxpayers attribute the functioning and the levying of taxes for the City of Chicago on the City Council and not on the 24 different taxing bodies. I venture to say that you could ask any taxpayer where does your money go, who spends it, and he would say the city administration and the City Council. I was talking recently with a man who pays $1,300 in taxes, and he said what is going to happen, next spring I understand there will be an increase in my $1,300. He did not realize that he was turning over just seventeen and

one-half per cent of the $1,300 to the corporate functions of the City Council and the rest went to the other 23 taxing bodies over which we have no control.

Mr. SUTHERLAND (Cook). I think that is true, but to what extent do you find the taxpayers are organized so that they will act as a unit on those occasions, is it not only in an exceeding emergency that you get any action out of them?

ALDERMAN RICHERT. It is not the little property owner that comes to the fountain head of his government to make his complaint; he hopes that his representative in the City Council will look out for him, but those who appear before the City Council and make appeals for retrenchment are not those, but men who can well afford the increase. Let me illustrate. We made our budget on contemplated income in 1917, absolutely figuring it to a dollar by experts, and the City Council endeavored to save ten per cent of this budget by legitimate methods, but the rich taxpayers of Chicago hired a law firm and took that splendid provision and on account of its illegality, as they claimed and fought it out in the court and they beat it, and what happened, after we got our appropriation bill and spent the money. They were the rich taxpayers of Chicago, not one of them represented the small taxpayer, they came in court and fought it and that efficient method of taxation was lost.

Mr. SUTHERLAND (Cook). The answer to that would be a law that when a tax levy was invalid, that not only the attacking litigant should benefit but every taxpayer should benefit accordingly, because is it not true that whenever a taxpayer, whether large or small appears before a government body and urges retrenchment, he is speaking for every other taxpayer?

ALDERMAN RICHERT. True.

Mr. SUTHERLAND (Cook). And he is speaking really more for the small taxpayer because the rich man can better afford high taxes, but the pressure before your committee is not from the taxpayer but from the organized employe, isn't it?

ALDERMAN RICHERT. The pressure comes from the demands of department heads to meet the increased activities that they feel is necessary; it comes from the fact that in the last three years there has been a tremendous increase in wages and overhead, cost of material, and it has been greatest in the past three or four years; the City Council has fortified itself by passing a law forbidding city employes from lobbying individually, and compelling the city employes to lobby collectively, and the result was that 90 per cent of the city employes have unions and demand their rights collectively, so that no discrepancy can occur as has happened in the past, because of that fact, and those that were not organized said, "My gracious, we are going to do the same thing," and they organize, and their demands are now before us.

Mr. SUTHERLAND (Cook). Now, I would like to ask you this question: Is it not true that in a number of lines men are employed in different branches of labor, skilled and unskilled on the union basis of daily wage?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). And that is computed in making up the appropriation and so handled by the department on a six day basis?

ALDERMAN RICHERT. No, sir, five and one-half.

Mr. SUTHERLAND (Cook). So they are strictly on the same footing as employes on the outside?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). Do they get sick leave out of that and do they get certain holidays out of that, but they do not get the Saturdays?

ALDERMAN RICHERT. They get sick leave out of that and they prescribe the holidays in their contracts.

Mr. SUTHERLAND (Cook). Now, the great bulk of the utility employes are organized, are they not, except possibly the clerical forces?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). If the utilities should be taken over by the city and the appropriation for those activities handled through the City Council and under the method we have used in handling lobbys, it is probable the clerical forces would be unionized, is it not?

ALDERMAN RICHERT. Yes, and why not?

Mr. SUTHERLAND (Cook). In that case you would have an increase of about 200 per cent in the number of municipal employes, and that would greatly increase the pressure for increased cost upon the Finance Committee of the Council?

ALDERMAN RICHERT. Not any more pressure than the conductors and motormen applied to the street car companies of Chicago and also forced the government to take a hand in it, and the result was the public utility raised our rates to seven first and now to six cents.

Mr. SUTHERLAND (Cook). Exactly, that pressure would be withdrawn from the operating heads and put upon you gentlemen who are responsible for the city government?

ALDERMAN RICHERT. Yes, under this principle we are compared to the head of a corporation; we negotiate with our employes the same as President Busby negotiates with his motormen and conductors. I know how it works because I sat with them during the night the cars were not running in Chicago and I know what pressure was brought to bear on Mr. Busby by myself and others in order to settle the question. Sure, it is bound to come.

Mr. SUTHERLAND (Cook). That pressure would be upon the elected officials of Chicago?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). I do not condemn this pressure, it is human, of course, but on the other side you would have the pressure of the general consuming and traveling public for low rates of fare, would you not?

ALDERMAN RICHERT. Just as it exists today.

Mr. SUTHERLAND (Cook). The only difference would be the responsibility would be transferred from private hands to the elected public officials?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). They would be between the upper and the nether mill stones?

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). The easiest thing to do, in the event we should have less strong city officials than we have now, let us say, the easiest thing to do would be to yield to both pressures and operate with a deficit made up from some other source?

ALDERMAN RICHERT. On one way we have the pressure of the employes of the traction companies and on the other hand we have the action of the public utilities, it is the same thing.

Mr. SUTHERLAND (Cook). And the natural tendency would be towards the deficit so far as operating revenues were concerned?

ALDERMAN RICHERT. No more than with the Surface Lines today. They claim if fares are not increased their securities will depreciate.

Mr. SUTHERLAND (Cook). The Surface Lines now claim a haven of refuge in the Public Utilities Commission.

ALDERMAN RICHERT. Yes.

Mr. SUTHERLAND (Cook). Here is another thing I would like to bring out. The public utility operation in private hands has the aim in view of making money for the stockholders, it has that incentive while the incentive of the City Council would be to furnish service at the lowest legitimate cost, would it not?

ALDERMAN RICHERT. I think that is one of the uppermost features of any public utility, it is service.

Mr. SUTHERLAND (Cook). If the city were operating a utility it would be between those two pressures which now exist. Who would go to the Utilities Commission to stabilize the situation and avoid a deficit?

Supposing the city were operating its utilities, with that pressure existing, the pressure upon operating costs and the pressure down on fares and rates, until a deficit is created; perhaps it is impossible to keep up the interest on the bonds; what does the city do under those circumstances?

ALDERMAN RICHERT. If that condition existed, it would do what the Public Utilities done, increase the rates, which it would have a perfect right to do, as any private interest would.

CHAIRMAN HULL. Mr. Sutherland, you are trying to bring out the point there would be a deficit and it would have to be paid out of taxes?

Mr. SUTHERLAND (Cook). Yes.

CHAIRMAN HULL. And the speaker does not want to acknowledge that point.

ALDERMAN RICHERT. No.

CHAIRMAN HULL. We are taking up a long time on the discussion.

ALDERMAN RICHERT. I say no, if it does not provide sufficiently, put the restrictive clauses in there. We do not want any power that will give the City of Chicago the right to dip into taxes for the promotion of public utilities. I thought I made myself clear on that. If you are going to give us any power, put that restriction in, I have no such intention at all.

Mr. SUTHERLAND (Cook). We are in entire agreement on that. You remember the restrictions which I included in the proposal I introduced this morning, that any services rendered should be on a rate basis sufficient to cover operating expenses, interest and principal on bonds, depreciation and to set aside a reserve against contingencies, that would meet with your approval?

ALDERMAN RICHERT. Yes, and the present further method as to the amortization proposition that has now entered into all bonds.

Mr. SUTHERLAND (Cook). I thank you.

Mr. REVELL (Cook). In the consideration which the committee has given to this matter of municipal ownership, have you considered whether the activities of municipal ownership would apply only to street and elevated roads and so forth or would it take in other utilities in the City of Chicago, and if so, what other utilities?

ALDERMAN RICHERT. There have been many methods devised and submitted as to what should constitute a public utility necessary to function a big city like Chicago, it has been gas, electric light, telephone, and it has been street cars; the present modern method demand something further besides those utilities that you hear so much of, for instance, and it eminated from the poorer sections of Chicago, and that legislation has been asked, to have the City of Chicago maintain ice plants, as an illustration, that is a commodity they believe should come under that category, and I presume that can be done.

Mr. REVELL (Cook). One question in connection with that, and I think, Mr. Chairman, I shall not ask any more questions, and that is, has the committee estimated the amount, or rather the number of employes which all these activities would call into being and might need, I understand there are about 650,000 voters in the City of Chicago and these activities might take 100,000 employes, that is, it is possible, and I regard that as a very great menace; you say that can be prevented by civil service; has the committee estimated the number of employes that may be necessary of the city as far as it may under the plan which you have presented?

ALDERMAN RICHERT. Our plan would not permit that.

Mr. MICHAL (Cook). I have two or three inquiries I would like to ask Mr. Richert if I am permitted. Regarding the proposition of municipal employes, you have expressed yourself upon the proposition that a large percentage of the employes of the City of Chicago come under the civil service law?

ALDERMAN RICHERT. Yes.

Mr. MICHAL (Cook). What is the fact as to whether or not in your experience politically in organization and otherwise you have found the civil service employes to be practically of no political value?

ALDERMAN RICHERT. To a considerable extent they are of no value.

Mr. MICHAL (Cook). Now, with regard to the dilemma that the City Council and your Finance Committee of the City of Chicago was confronted with at the time of the making of this budget, when the saloon licenses, when the revenue from saloon licenses was cut off, was there any suggestion of a material character or any constructive program offered to the members of the Finance Committee, either to individuals or to the body in their collective function by any of the numerous civic and reform organizations that have always sought to criticize every act of a public official, whether it be in village, town, state or nation?

ALDERMAN RICHERT. Just one, the Bureau of Public Efficiency.

Mr. MICHAL (Cook). That was only in regard to retrenching with regard to the payment of salaries?

ALDERMAN RICHERT. Exactly.

Mr. MICHAL (Cook). It was not a constructive, concrete suggestion, or in any way helpful. The City of Chicago has for its Mayor a Republican, and a majority of the City Council is composed of members of the Democratic party.

ALDERMAN RICHERT. Up to now, but next spring it will be different.

Mr. MICHAL (Cook). I merely called that to your attention to allay the fears of any mountainous strength that the city employes would have in election matters; likewise the city treasurer and the city clerk are Democrats?

ALDERMAN RICHERT. Yes. The reason I said that next spring it would be different is because there is a new law to go into effect on February the 24th and an election will be held on a nonpartisan basis.

Mr. KUNDE (Cook). Isn't it a fact that a great number of the employes of the municipal tuberculosis sanitarium are also temporary?

ALDERMAN RICHERT. We have no jurisdiction over them.

Mr. KUNDE (Cook). Some of the delegates are a little worried about the employes belonging to some political party or some faction.

ALDERMAN RICHERT. I said the claim is made owing to the fact they have been appointed by civil service that their activities may be political.

Mr. GORMAN (Cook). I would like to ask you, Alderman, if you have made a comparative study between the wages of the employes in exclusive civil service and those performing work of a similiar capacity in private industries?

ALDERMAN RICHERT. During the past three years I have had five members of my staff work on that from day to day and it is not completed, but a comparison with all the wages paid throughout the United States in similar occupations, comparing every position side by side, as to whether the City of Chicago is paying more or less than New York, San Francisco or any other large cities of the United States.

Mr. GORMAN (Cook). In which field is the wage scale higher?

ALDERMAN RICHERT. In the crafts.

Mr. GORMAN (Cook). I mean in exclusive civil service or private industry? Do you know from your studies in which class employes receive a higher wage, whether in exclusive civil service or in private industry, where men perform work of a similar nature?

ALDERMAN RICHERT. In 1917 the average salary paid to all clerks employed in the City of Chicago was $1,213 per annum; owing to the enormous increase made in 1919 and 1920 those figures do not apply. You can judge for yourself, if you have any employes like a stenographer or bookkeeper whether $1,213 is an average for all employes, whether that is a minimum sufficiently low or high as compared with the outside trades.

Mr. GORMAN (Cook). What have you found by comparison at the time you made the study?

ALDERMAN RICHERT. In 1919, for instance, the firemen of the City of Chicago received $1,800; in New York, $1,650; that is a comparison. The policemen of New York in 1919 received $1,650, and 1920 they receive $1,900, and the firemen of New York also received $1,900, so they are now ahead of the Chicago Fire Department; other cities are paying more. Philadelphia

still pays only three dollars and a half to policemen per day on a per diem basis; we have got this information throughout the country. As to the union wages, as compared with non-union wages, we classify the police and fire as non-union, still they belong to the division of labor, that is, the firemen do. We have compared that with other cities, with what they pay, and the union scale is what bothers us most, the scale established on the outside, it bothers us to meet that; they come to us and say we can work for nine dollars a day and here I am getting only seven. We try to tell them because of their pension and sick leave they had better stay, but they say that the city is not doing any more for me than I can get outside, and besides they get the nine dollars and they ignore the pension proposition. Day before yesterday the Finance Committee had the nurses before them, and we said to them, don't you know you participate in pensions, when one of the nurses said, "I am only 22 years old, and I cannot afford to wait until I am 55 to get that pension." It is a peculiar situation.

Mr. GORMAN (Cook). Have you any knowledge of the employes in the classified Federal civil service having organized along political lines, contemplating election activities, that is, contemplating the election or defeat of men in public office accordingly as they were favorably or unfavorably disposed to the employes?

ALDERMAN RICHERT. I think there was a time when that was done. In my experience of 16 years in the City Council I have come in contact with federal employes to some extent. In years gone by it was done, but in later years, within the past eight or ten years, I doubt very much that any concerted action has taken place along that line in the federal service.

Mr. GORMAN (Cook). I do not believe it has been by the employes in the classified federal service.

Mr. JARMAN (Schuyler). As a delegate from outside of Chicago, I would like to have you tell us whether your proposed plan made to this Convention by the City Council has been agreed upon among the political organizations and civil organizations and the leading citizens of Chicago, do they agree that this is a proper proposal?

ALDERMAN RICHERT. I will answer that in this way, I do not want to say no and I do not want to say yes, and I do not desire to deceive this body. Owing to the element of knowledge that prevails in the City of Chicago as to its needs by the general public, and owing to the fact that these questions have been uppermost in the minds of Chicagoans for years, and no legislation has been obtained to any extent, the sentiment prevails there for home rule. Now, the City Council labored on that publicly for four months; we invited 457 different organizations in Chicago, a great number of clubs and federations of all kinds to come in and participate in the discussion of this important question that only comes up in a lifetime. Then we formulated this proposition that lies before you. We sent it to those 457 organizations and asked them to come in and criticise that measure that we were going to present to the Constitutional Convention, and to my surprise and the members of my committee, when we got down here we found other pamphlets emanating from Chicago that we had no knowledge of. I am giving you that for what is in it. I believe that owing to the opportunity that was given to all these elements, that there certainly would have been some measure of opposition owing to the fact that we gave that all the publicity that could be given without going to each individual and asking them to come in; we left it to those organizations and they have not come to this day.

Mr. MICHAL (Cook). It has just occurred to me while Alderman Richert was here to ask him, and I take it he is an authority on the proposition so far as municipal matters are concerned with regard to the City of Chicago; in the event of consolidation, what is your opinion, Alderman Richert, as to whether or not it would be feasible for the City of Chicago to acquire control and operation of the Sanitary District? Will you briefly give us your views on that?

ALDERMAN RICHERT. It should not be only feasible, but done, for this reason: Because when that particular commission was created, gentlemen, every voter who voted upon that proposition imagined that that was

not going to be a perpetual undertaking. We believe that the activities of that institution were to turn the flow of the river down State, and since that has been done the legislature was good enough to that particular body to create other functions, so they are going so far now as to pave roadways along the line of their drainage canal; they have extended other canals, and so forth, and are becoming a burden on the taxpayers, to the extent of $5,000,000 on taxes loaned for general operation and many more million for the creating of a surplus fund and interest on bonded indebtedness. It was not contemplated that organization should exist after it turned the flow down the river; it was a measure to relieve Chicago of this sewage that was contaminating their water, so why should not that be a municipal body?

CHAIRMAN HULL. You were speaking of a pension fund; the present law requires the city authorities to make tax levies up to a certain amount for the maintenance of this fund, is that so?

ALDERMAN RICHERT. Yes.

CHAIRMAN HULL. Under the provisions of this proposal, would the Council be at liberty in any way to disregard the requirements of those laws?

ALDERMAN RICHERT. I should say not.

CHAIRMAN HULL. They would still have to make the tax levies as provided in those laws?

ALDERMAN RICHERT. Yes, and I believe the City Council would establish a permanent surplus fund whereby the future would be stable and the men employed by the City of Chicago would not be in an uncertain position and facing a deficit of the pension fund.

CHAIRMAN HULL. The pension fund ran many years before the City Council overhauled it by actuaries, and so forth?

ALDERMAN RICHERT. Yes.

CHAIRMAN HULL. And the legislature overhauled them?

ALDERMAN RICHERT. Yes, and the legislature did not get the rate necessary to maintain the pension fund, owing to the fact perhaps that they did not desire the people of this State to be burdened with excess taxes levied in order to create a surplus fund. That problem must be confronted by the State as well as the City of Chicago, we have to face that question of creating a surplus. Your insurance companies create a surplus to maintain the future of the institution, and your pension bonds are required to maintain that surplus fund as a basis of permanency.

In conclusion, gentlemen, there has been so much said here about employes' activity in politics, that I just want to say a few words more on that point: I have been in the City Council 16 years, and a great many police, fire and city employes live in my ward; they own cottages, and there is nothing but cottages and two story buildings in my ward, as Brother Shanahan knows, who lives in my ward, and I have been retained by them for sixteen years, and I am fortunate in saying that I am still a member of the City Council, and perhaps may be re-elected, I don't know, but I have implicit confidence in the city employes' judgment as to that, at least as to those that live in my ward.

Mr. REVELL (Cook). The visit of this committee has certainly been enlightening and helpful to this Convention, and I move that we extend to that committee, its chairman and again to Professor Freund the thanks of this Convention.

Mr. MICHAELSON (Cook). In line with the question asked by one of the delegates from down the State as to whether this proposal is what the people of Chicago want, I want to express my own personal opinion. We have before us a very scientific and profound exposition of a home rule scheme. Its author, a professor from the University of Chicago. Alderman Richert explains that the council committee who endorses these proposals as written by the Professor invited numerous organizations throughout the City of Chicago to express an opinion. They did not come. I see a good reason why they did not come. There is too much language in this proposal, too many words. My opinion is, and my experience has been that when a good, neat, clean job is to be done the thing to do is to trot out

a professor. In a very short time follow him up with two or three more professors who endorse his idea. Then they publish in the newspapers two or three laudatory articles along the same line, and then the interests of the people have been served and conserved.

I want to help to correct the impression in the minds of the down State delegates, if a wrong impression exists, that this may not be what the people of Chicago want as a measure of home rule. I believe that Alderman Richert's idea is the idea expressed by the people. He explains it in language we can understand and that the people can understand. The Professor's idea may be exactly what Alderman Richert has expressed, but I want to see it in plain language. If this were submitted in the vicinity of the University of Chicago it might get a unanimous vote, but if this language was submitted to the working man on the west side and on the northwest side and in Alderman Richert's ward it probably would not get a vote.

Now, gentlemen, don't run away with the idea that this is what the people of Chicago want on home rule. They want as I understand it and believe, they want to know that they are going to have a five cent car fare. They want to know that the public utilities corporations, if any there shall be, shall be prevented from robbing them constantly as they have done in the past. They want to know that there shall be sufficient money in the city treasury to pay the salaries and the right kind of salaries to the policemen and the firemen and the school teachers and to all the other city employes. They want to know that the improvements which are necessary in the City of Chicago shall go ahead, and that the money shall be there to complete them. Further than that, outside, possibly, if it could be done, if they could in some manner be relieved of the burden of the high prices of commodities, I say if that could be done in a home rule measure, I say that would about express what the people of Chicago want in a home rule bill.

This may contain them. I don't know. I have not had time to study it carefully, and I am a pretty good judge of language myself, and I don't want this Convention to get the idea that this is the thing the citizens of Chicago are crying for.

Call in representative citizens. Don't rely upon the Bureau of Public Efficiency, who also have endorsed this proposition. They are made up of tax-dodgers, the biggest tax-dodgers who want to keep down the rate of taxation and who will go to court to knock over a budget that has been adopted to provide for the activities of the City of Chicago. Such men as Julius Rosenwald, who has about 25 million dollars of war profits in his pocket, such men as him want to tell you what the people of Chicago want in a home rule measure.

Gentlemen, before you adopt these provisions, look well to what the language contains, and if this is the mess of pottage for which the citizens of Chicago are to barter their birth-right, I want to say to you now that they won't agree to the bargain.

Mr. MAYER (Cook). I do not intend at this time to even assume that the Constitutional Convention of Illinois, the delegates to the Convention now in session constitute a political body that needs to be harangued by personalities or by invidious comparisons. The article that has been presented here has neither my approval nor my condemnation. I propose to study it as one of the 102 members of this Convention, but I propose to study it in the light of calm reflection, undisturbed by animosities or motives or methods that attack the men who have brought this article here as the best result of their intellectual work.

I was thinking whether if Alexander Hamilton were now alive, one of, if not the greatest intellectual of the early days of this country, and whether the committee of which he was one was to present the Federal Constitution to the citizens of the great west side of Chicago or to the citizens of the great northwest side of Chicago, whether that wonderful instrument would have received a single vote in its favor. The mental effort that is required in the drafting of a Constitution goes far beyond the use of phraseology that can necessarily be understood by the three millions of people of Chi-

cago, all men and women of character who pursue their various occupations animated by purposes of the highest civic tendency, but this Convention will be called upon before its work is completed to consider language which I hope will embrace all of the legal complications and technicalities which will avoid the pitfalls and which will make it unnecessary so far as we can anticipate to have needless court decisions in order to interpret what the Constitution means. But it is very premature at this early stage of this Convention to ask that the framers of the new Constitution shall incorporate in their work language which everybody can understand. If so, no Constitution has ever been framed and none will ever be framed that can be adopted by the people. We might just as well ask that he who practices medicine should prescribe for the sick in words which the patients can understand. This is the work of lawyers, of merchants, of experienced men who are going to, as the result of their labors, submit to the voters of this State a Constitution, whether the language be such that it can be understood by the voters of a particular precinct in Chicago or not. The interpretation of language in a fundamental instrument of government falls within the functions of experts, and that is why the great legal profession exists, for the purpose of interpreting not only documents which are the fundamental postulates of American government, but the every-day contracts which are drawn between citizens and individuals.

I hope before this Convention adjourns, it comes to no conclusion, before this Convention recess, whether the people of Chicago want or do not want this particular article. Speaking as one citizen of Chicago and before the body which this will come before final report, I wish to say that I am happy after a night's study to realize that Professor Freund has been able to put in such few remarks so much of fundamental meaning and reasoning.

Mr. HAMILL (Cook). I move that the Committee now arise and report progress.

(Motion prevailed).

Mr. HULL (Cook). Your committee has now adjourned and reports progress.

THE PRESIDENT. The only other thing is the entertaining of a motion to adjourn. Before that motion is made, however, the Chair would state that the committees have now been announced, different sections of the Constitution have been referred to the several committees, there are proposals introduced and they have also been referred to the several committees and committee chairmen are now ready so far as could be provided for for the active work of their committees. The question suggests itself as to the proper time to which the Convention should now adjourn, and on that proposition the Chair would respectfully request expressions from the chairmen of committees and from other delegates as to the time to which we should take adjournment.

Mr. GALE (Knox). It seems to me in view of the situation in regard to proposals and to the fact that the committee on rules and procedure has referred the various provisions of the Constitution to different committees, that when we adjourn we adjourn until next Tuesday morning, and that in the meantime it may be possible for the committees to so far get organized that beginning with the adjournment on next Tuesday we may actively go into the committee work, and I do not believe that the proposals are as yet in such shape that we can gain any special amount of time by adjourning merely until tomorrow, and therefore, Mr. President, I move that we adjourn until ten o'clock on Tuesday morning. I make that as a motion, that we now adjourn, Mr. President, until ten o'clock on Tuesday morning.

Motion prevailed and the Convention adjourned until Tuesday, February 3, 1920, at 10 o'clock a. m.

TUESDAY, FEBRUARY 3, 1920.

10:00 o'Clock A. M.

Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Rev. Phillip W. Yarrow, Pastor of the Morgan Park Congregational Church.

Upon the reading of the Journal of the last session of the Convention, motion was made by Delegate Hamill (Cook) that the further reading of the Journal be dispensed with.

(Motion prevailed.)

Mr. SUTHERLAND (Cook). I ask leave of absence for my colleague, Mr. Oscar Wolff, because of illness in his family.

(Leave granted.)

Mr. HOGAN (Hamilton). I ask leave of absence for my colleague, Judge Gee, on account of illness.

(Leave granted.)

Mr. O'BRIEN (Cook). I ask that leave be granted my colleague, Mr. Michael Rosenberg, on account of illness.

(Leave granted.)

Mr. SMITH (JoDaviess). I ask leave for my colleague, Mr. Stahl, absent because of illness.

(Leave granted.)

Mr. CARLSTROM (Mercer). I ask leave of absence for Mr. Dietz, who is ill in a hotel in this city.

(Leave granted.)

PRESIDENT WOODWARD. The President is in receipt of a letter from Delegate L. C. Johnson, in which he says that on account of the illness of his wife he cannot be here. If there is no objection, the Journal will show that leave will be granted.

(Leave granted.)

Mr. JACK (Jasper). I ask leave for Judge Pearce, on account of illness.

(Leave granted.)

Mr. LATCHFORD (Cook). I have received a telegram from Mr. Potts and Mr. Corcoran, asking that they be excused from this session, and I ask that they be excused in accordance with their request.

(Leave granted.)

PRESIDENT WOODWARD. The President would further state that Delegate Paddock, of Sangamon, asks the President to present to the Convention his excuse for absence, which are on account of a severe cold, he being under the doctor's orders to stay in the house, and if there is no objection the Journal will show a leave of absence for Delegate Paddock.

(Leave granted.)

PRESIDENT WOODWARD. The President has a letter here which he will ask the Secretary to read for the information of the members of the Convention.

THE SECRETARY. (Reading).

1671 Jackson Blvd., Chicago.

Dear Mr. Woodward:

Will you kindly express my gratitude to the members of the Constitutional Convention for their beautiful flowers and expressions of sympathy.

Most sincerely yours,

Ethel M. Sullivan.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction and first reading of Proposals, motions and resolutions, unfinished business and general orders of the day, all without debate.

PRESIDENT WOODWARD. Nothing further before the Convention, a motion to adjourn will be in order.

Mr. HULL (Cook). I move we adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken until 10:00 o'clock, Wednesday, February 4, A. D. 1920.

WEDNESDAY, FEBRUARY 4, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Rev. Robinson.

The Clerk was reading the Journal of the previous session when Delegate Hamill (Cook) stated that the Journal incorrectly showed his motion made on the previous day, which was that the further reading of the Journal be dispensed with, but not that it stand approved until it came upon the desks of the members, and moved that the Journal be corrected accordingly.

(Motion prevailed.)

Upon the Clerk continuing the reading of the Journal of the previous session, Delegate Hamill (Cook) moved that the further reading of the Journal be dispensed with.

(Motion prevailed.)

Mr. HAMILL (Cook). I move that the Journal as printed for the meeting of February 3rd, be approved.

(Motion prevailed.)

Mr. ELTING (McDonough). I ask that my colleague, Judge Mack, be excused from attendance upon this Convention for the remainder of the week on account of sickness in his family.

(Leave granted.)

Mr. GILBERT (Jefferson). On account of illness in my family I ask to be excused from attendance for the remainder of the week, after today.

(Leave granted.)

Mr. SUTHERLAND (Cook). I would ask that my colleague, Mr. Wolff, be excused for the rest of the week on account of sickness in his family.

(Leave granted.)

Mr. WALL (Pulaski). I ask to be excused for the remainder of the week, because I have to deliver a memorial address in Greenwood, Indiana, tomorrow.

(Leave granted.)

PRESIDENT WOODWARD. The President is in receipt of a communication from Delegate Brewster, of Lee county, saying he is still confined to his home on account of illness, and asks that his excuse be entered on the Journal.

(Leave granted.)

Mr. CARLSTROM (Mercer). I ask that my pal and colleague, Delegate Dietz, be excused from this session because of his continued illness at the hotel.

(Leave granted.)

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction and first reading of proposals, motions and resolutions, unfinished business and general orders of the day, all without debate.

Mr GORMAN (Cook). Mr. President, I present the following resolution:

RESOLUTION No. 17.

WHEREAS, Michael F. Sullivan, after a campaign for the position, was elected a delegate to this Constitutional Convention from the Second Senatorial District; and

WHEREAS, Within a few days following the assembling of this Convention said Michael F. Sullivan was summoned to the Great Beyond; and

WHEREAS, There was a certain definite expense connected with his said campaign and the needs of his family are such as to require the compensation attached to the office; now, therefore be it

Resolved, That it is the sense of this Constitutional Convention that the compensation allowed to delegate members thereof be paid to the surviving widow of said Michael F. Sullivan, or to his legal representatives.

Mr. BECKMAN (Cook). I move this subject matter be referred to the Committee on Expenses and Supplies.

(Motion carried.)

PRESIDENT WOODWARD. If there is nothing further to come before the Convention, a motion to adjourn will be in order.

Mr. GREEN (Champaign). I move that the Convention adjourn.

(Motion carried.)

Whereupon an adjournment was taken to Thursday, February 5th, A. D. 1920, at 10:00 o'clock a. m.

THURSDAY, FEBRUARY 5, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

Upon the reading of the Journal of last session a motion was made by Delegate Sutherland (Cook) that the further reading of the Journal be dispensed with and the same stand approved.

(Motion prevailed.)

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction and first reading of Proposals, motions and resolutions, unfinished business and general orders of the day, all without debate.

The President laid before the Convention the following committee reports, which were adopted:

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports for your approval that Rule 37 of Article VI of the rules of this Convention be amended to read as follows:

"A majority of a committee shall constitute a quorum. All committee reports upon Proposals shall be in writing, and shall be signed by at least a majority of the members of the committee, and shall be accompanied by all the papers in relation thereto. Such reports when made shall be spread upon the Journal.

"Every committee report upon Proposals, shall be in proper sectional form and shall contain no reasons for such Proposal, nor any recital of facts which may have led to the report; but the committee or a reporting minority thereof, if it choose, may present on separate paper a recital of facts with an argument, which, however, shall not be entered on the Journal, except when ordered by the Convention."

COMMITTEE REPORT.

Your Committee on Rules and Procedure to whom was referred Resolution No. 14, introduced by Delegate Jarman, respectfully submits for your approval the following report:

This committee approves the suggestion made in said resolution, and suggests the following amendment to the rules heretofore adopted for the procedure of the Convention:

Resolved, That Rule 23 "Order of Business" be amended to read as follows:

Opening Prayer.
Corrections, if any, and approval of the Journal.
Special orders of the day.
Reports of standing committees.
Reports of select committees.
Introduction of Proposals.
First reading and reference of Proposals.
Second reading of Proposals.
Motions and resolutions.
Unfinished business.
General orders of the day.

Further, resolved, That there be added to the rules of this Convention a new rule to be designated 23½ of Article IV to read as follows:

23½. If on the Convention day following the day on which the printed Journal for the preceding Convention day is placed on the desks of the delegates, no corrections be made of the Journal as printed for such previous Convention day, the same shall stand approved.

Further, That said Resolution No. 14, as offered, lie upon the table.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following special order of business for next Wednesday, February 11:

The consideration in Committee of the Whole of the various Proposals concerning a proposed judicial system, and especially the consideration of Proposal No. 56, introduced by Delegate Miller.

PRESIDENT WOODWARD. What is the further pleasure of the Convention?

Mr. HAMILL (Cook). I move, sir, when this Convention adjourns, it adjourns until tomorrow morning at 10:00 o'clock, and I desire to make an explanation for the reasons therefor. The proceedings of the Convention are necessarily at this state somewhat formal, consisting almost entirely of the receipt of Proposals and the reading of Proposals. They cannot be printed until they are read. They cannot be read until the day after they are presented. The committees cannot have them referred to them until they are printed; the Proposals offered today, therefore, will not be available for the committees when they meet next Tuesday, unless there shall be a session tomorrow where the Proposals offered today can be read and ordered printed. It seems to me desirable that this Convention proceed now with its work with as much expedition as possible. The work is necessarily the work of the standing committees and they should be, it seems to me, in a position where they can proceed with as many Proposals as possible. That is the first reason for my suggestion that we have a session tomorrow. Another reason for it, it seems to me the Convention should proceed from now on, not only to dispatch its business with expedition, but it should take every step in fairness and without hypocrisy to impress upon the people it is diligent in dispatching its duties for which it was elected. It seems to me the minimum of inconvenience would be occasioned to the delegates, because the session will necessarily be short and the delegates will be able to catch the noon train, which will give them Saturday, Sunday and Monday at home. I trust, therefore, Mr. President, that the motion will prevail, and if there is no debate, I move we adjourn until tomorrow morning at 10:00 o'clock.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Friday, February 6th, A. D. 1920, at 10:00 o'clock a. m.

FRIDAY, FEBRUARY 6, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

PRESIDENT WOODWARD. According to the rule adopted on yesterday, there are no Journals to be corrected or approved as of today.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction and first reading of Proposals, motions and resolutions, unfinished business and general orders of the day, all without debate.

PRESIDENT WOODWARD. There being no further business to come before the Convention, a motion to adjourn will be in order.

Mr. HAMILL (Cook). I move we adjourn until next Tuesday morning at 10:00 o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, February 10th, A. D. 1920, at 10:00 o'clock a. m.

TUESDAY, FEBRUARY 10, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, Rabbi Edward L. Israel, of the Temple B'rith Sholom.

PRESIDENT WOODWARD. According to the rule adopted a few days ago, the Journals are not yet ready for correction this morning, but will be tomorrow morning.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction and first reading of Proposals, motions and resolutions, unfinished business and general orders of the day, all without debate.

PRESIDENT WOODWARD. Mr. Secretary, will you kindly read for the information of the Convention letters received from the United States Senators from this State:

St. Louis, Mo., 3114 Pine St., Feb. 9, 1920.

Hon. Charles E. Woodward, President Constitutional Convention, Springfield, Illinois:

DEAR SIR: Your appreciated invitation to attend exercises to be conducted at "Convention Chamber" in Springfield, Illinois, on Thursday next, "Lincoln's Birthday," received, and I much regret to advise you of my inability to attend.

To meet "the Convention" would give me pleasure, but unable just now.

Very respectfully,

(Signed) John M. Woodson.

UNITED STATES SENATE,
COMMITTEE ON DISTRICT OF COLUMBIA.

February 2nd, 1920.

Hon. Charles E. Woodward, President, The Constitutional Convention, Springfield, Illinois:

DEAR WOODWARD: I have yours of January 29th saying the Constitutional Convention unanimously adopted a resolution extending an invitation to me to address it on February 25th on general subjects involved in the work of that body. I appreciate the honor of the invitation. Please convey to the Convention in such a way as you think proper my appreciation. I will be present on the occasion named.

Very truly yours,

(Signed) Lawrence Y. Sherman.

Medill McCormick, Illinois,
Chairman.
Elisha Hanson, Clerk.

UNITED STATES SENATE,
COMMITTEE FOR CONSIDERATION OF A NATIONAL BUDGET.

February 3, 1920.

Hon. Charles E. Woodward, President Constitutional Convention, Springfield, Illinois:

MY DEAR PRESIDENT WOODWARD: I beg most cordially to accept the invitation to address the Constitutional Convention upon February 25th. I am compelled to do so, however, subject to the condition that it may be

that the business before the Senate unexpectedly will prohibit my leaving Washington for the 25th. This, however, I think unlikely.

Sincerely yours,

(Signed) Medill McCormick.

Mr. TAFF. The Committee on Expenditures and Supplies submit the following report and moves its adoption:

Your Committee on Expenditures and Supplies to which was referred Convention Resolution No. 17 offered by Delegate Gorman of Cook county respectfully report as follows:

The subject matter and purpose expressed in said resolution meets with the approval of your committee. Your committee, however, deem the wording of the resolution to be insufficient and inadequate to accomplish the purpose for which it was offered. Your committee therefore recommend the adoption of a resolution as follows:

RESOLUTION No. 18.

"*Resolved*, That it is the sense of this Convention that the sum of two thousand and fifty dollars (2,050), being the amount which Michael F. Sullivan, a delegate-elect, would have received had he taken the oath of office as such delegate, be paid to Ethel M. Sullivan, widow of the said Michael F. Sullivan, deceased.

"That the President of this Convention be and he is hereby directed to make, execute, and deliver a voucher to the Auditor of Public Accounts for said sum of money, said voucher to be in favor of Ethel M. Sullivan, widow as aforesaid, and the Auditor of Public Accounts is hereby authorized and empowered to pay the same out of moneys appropriated 'for the payment of salaries and other expenses properly incidental to the Constitutional Convention.'

"Your committee further recommends that Resolution No. 17 lie upon the table."

WALTER H. WILSON, *Chairman.*
A. E. TAFF.
J. H. PADDOCK.
H. H. STAHL.
ROLLO SIX.

Roll call—yeas, 73; nays, 0.

PRESIDENT WOODWARD. I have also received a letter from John W. Woodson, a member of the former Constitutional Convention of this State, in response to an invitation to him to attend our meeting on next Thursday, but he replies that on account of sickness he will not be able to attend.

The President would announce he is in receipt of a letter from Delegate Cicero J. Lindly (Bond) advising him that Mr. Lindly is sick at his home and unable to be here this week. Delegate Lindly asks that his excuse for absence this week be entered upon the Journal, and unless objection is made, the entry will be so made.

(Leave granted.)

The President is also in receipt of a communication from Delegate S. W. McGuire (Randolph) advises me that he also is ill and will be unable to be present this week and asks that his excuse be entered on the Journal, and unless objection is made the excuse will be entered.

(Leave granted.)

Mr. CORCORAN (Cook). I ask that my colleague, Mr. Potts (Cook) be excused on account of illness.

(Leave granted.)

Mr. KUNDE (Cook). I ask the same leave for my colleague, Mr. Pincus (Cook.)

(Leave granted.)

Mr. HOGAN (Hamilton). I have received word from Charles E. Parker that on account of illness in his family he desires to be excused.

(Leave granted.)

Mr. GEE (Lawrence). My colleague, Mr. Pearce (White) is ill and asks to be excused.

(Leave granted.)

Mr. TRAUTMANN (St. Clair). I received a wire stating that Delegate Brewster's wife had died, and he asks to be excused.

PRESIDENT WOODWARD. The President is also in receipt of a letter from Delegate Brewster advising him of the death of Delegate Brewster's wife, and if there is no objection Delegate Brewster will be excused for the week.

(Leave granted.)

Mr. CORLETT (Will). Mr. Barr is ill at his home and has asked me to present his request to be excused from attendance this week.

(Leave granted.)

PRESIDENT WOODWARD. Nothing further to come before the Convention a motion to adjourn would be in order.

Mr. CORCORAN (Cook). I move we adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, February 11th, A. D. 1920, at 10:00 o'clock a. m.

WEDNESDAY, FEBRUARY 11, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, Rabbi Edward L. Israel, of the Temple B'rith Sholom.

PRESIDENT WOODWARD. The Journals of February 5th and 6th, respectively, having been printed, and placed on the desks of the members on yesterday, are now subject to correction, being the Journals of last Thursday and Friday. There being no objections proposed, the Journals for February 5th and 6th, respectively, will stand approved as printed.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of Proposals, first reading of Proposals, second reading of Proposals, motions and resolutions and unfinished business.

PRESIDENT WOODWARD. The President is in receipt of a letter from Delegate Dryer, of Montgomery county, stating that sickness in his family prevents his attendance this week, and asks that his excuse be placed on the Journal of the Convention. Now, without objection, Delegate Dryer will be excused for the week.

The President is also in receipt of a letter from Delegate Brandon, of Kane county, advising him that on account of a conference of Vocational Education, to be held in New York City, it will be impossible for him to be present this week. Without objection Delegate Brandon will be excused for the week. There being no objection, it is so ordered.

Pursuant to a resolution adopted on February 5th, the time has now arrived when the Convention will resolve itself into the Committee of the Whole for the purpose of considering Proposal No. 56, offered by Delegate Miller (Cook) and other Proposals relating to the organization of the judicial department. Delegate DeYoung (Cook) chairman of the Committee on Judicial Department is designated to act as chairman of the Committee of the Whole.

Whereupon the Convention resolved itself into a Committee of the Whole.

CHAIRMAN DEYOUNG. Gentlemen of the Convention: The chair is informed that Judge Hiram T. Gilbert, of Chicago, is present and would like to be heard touching Proposal No. 56 introduced by Delegate Miller (Cook). With the consent of the Convention, I will ask Judge Gilbert to come forward and I will present him to the Committee.

JUDGE GILBERT. Mr. Chairman and gentlemen of the Committee: The judiciary article of the Constitution is something that we are all interested in, layman as well as lawyers. There are some phases of it that only lawyers can fully appreciate, but there are many other features of it that a layman, no matter what his vocation may be, can appreciate quite well. What I have to say this morning will be addressed more particularly to those who are not members of the legal profession.

In considering what changes, if any, should be made in the judiciary article of the Constitution, the first question presented is whether the present machinery for the administration of justice is satisfactory. A brief statement of facts will aid us in reaching a proper answer to this question.

The judicial department of the State government consists of approximately 2900 justices of the peace, approximately 2900 constables, 10 probate

courts with 10 judges and 10 clerks, 102 county courts with 102 judges and 102 clerks, the latter being also county clerks, 25 city courts with 26 judges and 25 clerks, the municipal court of Chicago with a chief justice, 30 associate judges, a clerk and a bailiff, 102 circuit courts, a superior court of Cook county and a criminal court of Cook county with 91 judges and 104 clerks, 4 appellate courts with 4 clerks, the judges, 18 in number, being judges of the circuit court and of the superior court of Cook county assigned to duty therein, a Supreme Court with 7 judges and one clerk, 102 sheriffs, 102 coroners, one attorney general and 102 state's attorneys, making in all 4626 officials, each of whom secures his office by election. There are also 166 masters in chancery and upwards of 1200 other inferior officers, being the assistants of judges and the deputies, assistants and other employes of clerks, sheriffs, coroners and state's attorneys, together with official reporters, each of whom obtains his position by appointment.

There are many criticisms to which this aggregation of instrumentalities is justly subject. It will be sufficient for present purposes to refer briefly to only a few of the more important ones.

First. The justice of the peace, police magistrate and constable system is criticised because it results in improper practices on the part of these officials which operate to unjustly annoy or oppress litigants. Many of them are ignorant and illiterate and unfit to discharge the duties of their offices in any proper manner. Any system of courts is objectionable which permits judicial powers or ministerial powers connected therewith to be exercised by persons who are ignorant and illiterate. Whatever may have been the situation a hundred years ago there is now no longer any excuse for the employment of such persons in conducting the business of the courts.

Second. The multiplicity of courts complicates the administration of justice because it causes much unnecessary work, delays the final disposition of causes and raises many difficult questions respecting the jurisdiction of the different courts which never ought to arise. A mistake by a member of the bar respecting the jurisdiction of a court may be fatal to the case of his client, although the question of jurisdiction may be so difficult of solution that in the court of last resort it is decided by four to three. Questions necessary to be decided are numerous enough. There is no occasion for imposing upon the courts the decision of unnecessary questions.

Third. The rules of practice and procedure of the courts are antiquated and cumbersome and are the cause of much injustice, as well as much inconvenience and expense to litigants, witnesses' jurors and officers of courts which could be avoided by the adoption of proper rules. This is conceded by all intelligent men who have given the subject consideration.

Fourth. The operation of the courts imposes a burden upon the tax payer which is much larger than it should be. The cost to the public of the courts in Cook county is approximately $3,200,000, not including expenses of the coroner's office or fees paid out of the public treasuries to justices of the peace, police magistrates and constables, or the expense of maintaining court houses, court rooms and jails. Of this expense approximately $2,000,000 is born by the tax payer, the remainder being paid by fees collected from parties to suits. The total expense per annum of operating the courts outside of Cook county, not including expenses of maintaining court houses, and jails, or the salaries of judges of the Supreme Court or other expenses of that court, could not be ascertained without a long and expensive investigation. They may, however, be conservatively estimated at upwards of $3,200.000, two-thirds of which, probably, is paid out of the public treasuries and the remaining one-third by fees collected from parties to suits. It is probably safe to say that the tax payers of this State are burdened to the extent of approximately $5,000,000 per annum on account of the operations of the courts in addition to the burden of maintaining penitentiaries, court houses and jails.

That there is very little open complaint about this expense results from the fact that what is everybody's business is nobody's business. The very small amount which the individual tax payer contributes to the support of

the courts would not justify him in putting forth any very great individual effort to bring about greater economy. If, however, such an amount of expense were incurred in the carrying on of the business of a private corporation there would be an investigation, and, indeed, repeated investigations by the board of directors to ascertain whether this expense was all necessary and, if not, how the unnecessary expense could be eliminated. That the public can be and should be relieved from the greater portion of this expense may be set down as certain.

Fifth. The offices of clerk of courts and sheriffs in Cook county, whatever may be the case in other counties, are misused for political purposes. The incumbents of these offices, as a general rule, are elected, not because they possess any fitness to discharge their official duties, but because they are important cogs in political machines. Their deputies and assistants are selected almost entirely on political grounds for the advancement of the interests of the managers of the different political parties. A clerk or a sheriff has no incentive to reduce expenses. On the contrary he has an incentive to increase the number of his deputies and assistants and their compensation. The greater the number and compensation of his deputies and assistants, the greater is his political influence. The history of this State, it is believed, may be searched in vain for any instance in which one of these officers has suggested an improvement in the business methods of his office by which its business could be conducted with a less number of deputies. The proposal of any such improvement would be fatal to the officer's chances of a renomination.

The result of this condition of things is that the public is put to much unnecessary expense and litigants and their representatives are compelled to submit to many unnecessary inconveniences because of antiquated and unbusinesslike methods employed in conducting these offices.

Sixth. The manner in which judges are selected is not calculated to produce good results in Cook county, although outside of Cook county there is probably but little cause for just complaint so far as judges of the supreme and circuit courts are concerned. In Cook county judges of the circuit, county, probate, superior, and municipal courts, are selected by a very small number of influential politicians commonly known as party bosses. When the time comes for nominating judges a small committee of Republicans meet and select the candidates of their party and a small committee of Democrats meet and select the candidates of their party. It is generally understood that no one can receive a nomination who is not *persona grata* to the members of the nominating committee, or who does not meet the approval of the political boss of the ward in which he lives. The names of those thus selected for judges of the circuit and superior courts are placed upon the official ballot as the candidates of their respective parties. Those selected for judges of the county, probate and municipal courts are required to have their nominations confirmed at primary elections before their names can go upon the official ballots. Such confirmation, however, is almost always secured although occasionally a rank outsider breaks the slate and secures a nomination. Of course, there may be at the election candidates of other parties, such as the Socialist party, or there may be independent candidates nominated by petition, but as no candidates other than those of the Republican and Democratic parties have any possibility of election, they might as well be left out of consideration. In reality, therefore, all the voters of Cook county are allowed to do in the way of selecting their judges is to decide what candidates selected from the Republican and Democratic lists made up by the party bosses they will support at the elections.

A candidate thus nominated is expected to pay a campaign assessment commonly supposed, in the case of a candidate for judge of the circuit or superior court, to be about $3000. He must print cards containing his photograph and setting forth his candidacy and these cards must be distributed throughout the county at some considerable expense. He may find it expedient to have his candidacy announced by posters on various billboards or on telegraph or telephone poles and this also involves expense.

If he should be so fortunate or unfortunate as to be elected he must make liberal contributions from time to time to the campaign funds of his party. He will also find it advisable to purchase tickets for various entertainments organized for charitable and other purposes and make divers other contributions. Lest between one election and another his name should be lost sight of he is likely to find it worth his while to attend numerous funerals, or express his sympathy for the bereaved ones by sending flowers, or both, and to make public addresses on various subjects. One means which seems to be frequently employed at the present time by some of our judges to attract public attention and attain popularity is "twisting the British lion's tail." It would be quite difficult, if not impossible, to place a limit upon the contributions a judge may find it necessary to make, or the other things which he may find it necessary or expedient to do, in order to maintain his popularity and avoid being forgotten at the next election.

Of course such methods as these of securing and retaining the judicial office are not calculated to inspire the greatest amount of respect on the part of the people for the courts, or the greatest confidence of the people in the integrity of the judges. That many judges elected in this manner prove to be honest and capable cannot be denied. That is doubtless true of a large majority of them. Nevertheless, it is unavoidable that there be apprehension on the part of litigants that if their opponents, or the members of the bar who represent their opponents, are men of more than ordinary political influence, the scales of justice may not be held evenly. Doubtless the suspicion is warranted that there are instances in which justice is perverted through improper political influences. It would seem not unnatural that a judge, unless he is a very strong character, should feel at least embarrassed if called upon to render a decision against the known interests or wishes of the political boss who has made him judge and has the power to prevent his reelection. That some of the judges selected in this manner are unfit to properly discharge the duties of judge cannot be denied.

Seventh. Complaint is also made respecting masters in chancery. The forty masters in Cook county are competitors in business. They are compensated for their services solely by fees paid by litigants, which fees are fixed partly by statute and partly by the courts. References to these officials are much more expensive and burdensome to litigants than they ought to be. The taking of testimony by stenographers is unnecessarily expensive and as a master's fees depend to a large extent upon the number of pages of testimony transcribed there is necessarily a temptation on the part of masters and stenographers to embody in the transcript useless matter. This not only unnecessarily increases the expense to the parties litigant but also increases the work of lawyers and judges in considering the master's report. In Cook county competition between masters is calculated to tempt them to solicit business and to resort to other questionable methods of increasing their earnings. Their method of compensation creates the suspicion among lawyers, whether well founded or ill founded is immaterial, that lawyers having a large number of references may obtain favors not obtainable by those whose business is smaller. Occasionally it is suspected that masters have behind them influential politicians who have secured their appointment and who can be induced to say to them a few kind words in favor of parties to references. It is not going too far to say that the master in chancery system in Cook county is worse even than the justice of the peace system which formerly existed in the City of Chicago. It is, however, but just to say that there are many masters, probably a considerable majority of them, who are scrupulously honest and well qualified to discharge their official duties.

Eighth. Complaint is made that the disposition of litigation, both civil and criminal, is unnecessarily delayed and is so conducted as in many cases to bring about miscarriage of justice. It may be that outside of Cook county there is comparatively little complaint. In many counties there is but little litigation, either civil or criminal, and whatever litigation there is can be disposed of with a reasonable degree of promptness. In Cook county, however, the situation is serious. It is serious enough in respect to the dis-

position of civil cases in courts of original jurisdiction and in the appellate court, but it is still more serious with respect to the disposition of criminal cases in the criminal court. It would serve no useful purpose to recite facts showing the inefficient and unsatisfactory enforcement of the criminal law in Cook county. They are well known. This inefficiency has its natural result. It greatly increases crime, its breeds contempt for the law and destroys the confidence of the people and the courts. It is a condition which demands a remedy.

Ninth. Complaint is made that persons called upon to attend court as witnesses or jurors are put to a great inconvenience and loss. This is particularly true of jurors. Not infrequently jurors are compelled to participate in trials of criminal cases which continue for several weeks or even months during which they are kept in confinement and compelled to suffer many physical discomforts. Their pay, as fixed by statute, even in the cases of common laborers, is less than their earning capacity while pursuing their ordinary callings. In many localities, especially in farming districts, jury service, owing to the scarcity of farm help, works great hardship and requires sacrifices which men ought not to be called upon to make.

There are many other evils in the jury system such as the selection of men who are unfit, either mentally or physically, or both, to take part in the decision of any question, much less in the decision of complicated questions of fact, or the selection of men who have no sympathy with the enforcement of the criminal laws and who wilfully refuse to return verdicts which are clearly required by the law and the evidence.

That is frequently the case in Cook county. Jurors frequently refuse to convict a man who ought to be convicted, and jurors are not to be blamed very much, when they are trying the case of some poor devil, if they say, "Well, these other fellows got off, and we will let this fellow go."

Thus trial by jury, which with competent men as jurors and under proper regulations is a most valuable institution, has become in this State, to a large extent, a means of injustice and oppression instead of a means of protection to honest men against injustice. No man of sense will deny the necessity of reform in this direction.

There are many other grounds of criticism of the operations of the courts. It would serve no useful purpose to detail them to intelligent men who are familiar with the history of this State for the past forty or fifty years.

The second question presented is what is the best remedy for the evils which have grown up under our present judicial system? One remedy suggested is the adoption of the proposed article offered by Hon. Amos C. Miller, a member of this Convention, and now before the judicial committee for consideration and discussion. An examination of this proposed article will show that the propositions upon which its provisions are founded are that the judicial department of the State government must be made absolutely independent of the legislative department; that the legislative department must be limited to dealing with and defining rights and liabilities, including crimes and their punishment, and the judicial department must be granted exclusive power to determine the methods by which those rights and liabilities are to be adjudicated by judicial proceedings, and must be furnished with the means which it deems necessary to properly conduct those proceedings. The arguments in support of this proposition are in the main these:

As the judicial department is required to perform one of the most important functions of the government, the administration of justice, it should be vested with all the power necessary to properly perform its work. The judicial determination of controversies between litigants requires learning and skill of a peculiar character. The methods by which this work shall be performed should be determined upon by those who alone are competent to do so. To impose upon the judges the difficult work of adjudicating controversies and at the same time to permit their methods of doing it to be prescribed for them by the members of another department of the government utterly incompetent to appreciate the kind of methods necessary or

proper is no more sensible than it would be for the General Assembly to regulate the practice of medicine and surgery by prescribing the remedies to be used and the operations to be performed.

Again, the proper carrying on of the business of the courts requires the employment of a large number of persons to assist the judges and the expenditure of large sums of money. The number and character of the persons to be employed and the amount of money to be expended can best be determined by the judges themselves.

Finally, it is expedient and important that the people should be able to hold the judicial department of the government responsible for an inefficient and unsatisfactory administration of justice and this is possible if the judges are compelled to do the work with money as to the amount of which they have nothing to say, are governed by rules and regulations made by other persons incompetent to make them; and must perform their duties with the assistance of inferior officers in the selection of whom they have no voice.

Against the expediency of adopting the essential features of the proposed article a number of arguments have been advanced.

First. It is argued that a Constitution should be brief in form, placing only such restrictions upon the general assembly as seem absolutely necessary, and leaving it to the power and the duty of arranging all matters of detail by laws which, if found defective or objectionable, can be readily changed. Hence, it is said that the judiciary article of our Constitution should be modeled after that of the Constitution of the United States which does little more than vest the judicial power of the United States in one Supreme Court and in such inferior courts as the Congress may from time to time ordain and establish, thus leaving it to Congress to regulate the jurisdiction and procedure of the courts as it may see fit.

This argument appeals with much force to three classes of individuals, being first, those who doubt the ability of the members of the Constitutional Convention to act intelligently upon proposals for the construction of a proper and efficient judicial system; second, those who are enjoying the benefits of the present unjust system, desire that no change be made and entertain no doubt that in the future they can prevent legislative action inimical to their own interests as easily as they have succeeded in preventing such action in the past.

If this proposition for a short legislative article is accepted and acted upon by the Convention there will be no longer any hope of the inauguration of this State of an efficient judicial system. This view is fully justified by the past history of the proceedings of the General Assembly.

There is no reason to hope that future General Assemblies will be superior, either in ability or integrity, to those we have had in the past. It is well, then, to consider the character of past General Assemblies and particularly that of the House of Representatives. Taking an average of the membership of the House of Representatives of each of the last ten General Assemblies it will be found that of its membership there were about forty practicing attorneys, the remainder of the membership consisting of farmers, clerks, real estate agents, bankers, physicians, contractors, manufacturers, insurance agents, publishers, salesmen, ministers, saloon keepers, retired capitalists, teamsters, druggists, miners, livery stable keepers, coal dealers, dentists, millers, barbers, brokers, editors, prize fighters, etc., etc. Of the practicing attorneys only a very small number could be regarded as capable of forming any proper judgment as to the merits of proposed legislation in relation to the courts. It may be stated with the utmost confidence there have been in the House of Representatives of each of the past ten General Assemblies one hundred and thirty men, out of a body of one hundred and fifty-three utterly unfit to vote intelligently upon any bill affecting the administration of justice. The absurdity of leaving to a body thus composed the important duty of legislating upon matters pertaining to the courts is evident.

The attorneys and counselors at law who are members of the Constitutional Convention, it must be assumed, possess all the ability necessary for a careful consideration of our needs and the framing of a judiciary article which will be a credit to the State. Why should a body composed of mem-

bers able to accomplish so great and important a work decline the task and "pass the buck," so to speak, to some body to be selected in the future which, it is morally certain, will be notoriously incompetent? Would it not be a pitiable spectacle for a Convention of able and intelligent men to confess their inability or unwillingness to do more in the interest of a decent administration of justice in this State than to propose to the people to adopt a judiciary article merely providing that the judicial power shall be vested in a Supreme Court and in such inferior courts as the General Assembly may establish by law? Let us not forget that we are living in the twentieth and not in the eighteenth century.

Second. It is argued that the proposed article takes from the General Assembly power which is legislative in its character and confers it upon the Supreme Court, which, it is said, ought to be limited to the exercise of purely judicial power. This argument is entirely without merit. It has always been the proper function of the courts to formulate rules of practice and procedure. Our common law and equity rules of practice have, in the main, been formulated by the courts. The legislature has, for the most part, confined itself to laws either making changes in those rules or depriving the judges of power to change them. Not only have the courts formulated the greater portion of our rules of practice and procedure but they have created by far the greater part of our substantive law. The line between judicial and legislative power is quite indistinct. It is safe, however, to assert that judicial power properly includes the framing of the rules necessary to make that power effective. There are many matters which the legislative body may with propriety, if it sees fit, either itself regulate or authorize them to be regulated by the courts.

To take from the General Assembly the power to deal with matters pertaining to the practice and procedure of courts, which matters it is incapable of properly dealing with, will leave it more time to deal with other matters which are within its own proper sphere of action. This will result in no detriment to the public interests.

The mere fact that certain powers have in the past been treated as legislative in their character furnishes no sufficient reason why they should be so treated in the future. The people have the right, in adopting a new Constitution, to make a new division of powers between the legislative and the judicial departments, and should do so if, in their opinion, the public good will be subserved thereby.

Third. It is argued that too much power is given to the Supreme Court. It is said the power thus given may be abused. The conferring of power upon any public officer necessarily carries with it some risk of its being abused. The judges of the Supreme Court would not be likely to abuse the powers conferred upon them. They are a body of men small in number. If they abused their powers the people would know it and they would be compelled by public opinion to restrain themselves within proper limits. Furthermore, an abuse of power would require the concurrence of the majority of the members of the court. Not only is it improbable they would not abuse their powers, but it is also to be said they would be in a position to prevent judges of inferior courts from abusing their powers. Much of the arbitrary conduct of which judges of inferior courts are occasionally guilty could and would be prevented if the Supreme Court were given a general power of superintendence. Furthermore it is inconceivable that the Supreme Court would abuse its power to the extent that the legislature has abused, or neglected to properly use, its power with respect to legislation pertaining to the courts.

Fourth. It is said that too much work is imposed upon the Supreme Court and that the judges of that court will be unable to properly perform the task committed to them. It cannot be denied that the job given to a judge of the Supreme Court by this proposed article is a man's job. It is very different from a job which merely requires an attendance at stated periods at the seat of government, the listening to oral discourse, the reading of printed briefs and arguments, and the returning home, there to write their opinions.

It must not be supposed, however, that all the work which would be imposed upon the Supreme Court would have to be performed by the judges individually. The far greater part of it could be performed by competent assistants, the power of the judges to employ whom would be unlimited. Men of learning in the law could be employed to formulate rules of practice and procedure, experts in particular departments of the law could be employed, and opinions might be written for the judges by competent assistants. What difference does it make who writes an opinion, if the opinion, when written, is the judgment of the court?

Notwithstanding the amount of work which would be imposed upon the judges of the Supreme Court, it is quite within bounds to say that, furnished as they would be with all necessary assistance, they could perform that work much more easily, and with much better advantage to the public, than they are able to perform their work now.

Fifth. It is said that the powers given to the judges to make appointments of assistant judges, clerks, sheriffs and other officers, will tend to give a political character to the office of judge and that is very undesirable. But who is it that raises this question if it is not the politician who thrives, or thinks he thrives, on the power of dispensing public patronage?

The power to make these appointments must rest somewhere. Is it not better that it be conferred upon the judges who are to be held responsible for the efficiency of their department of the State government and who must necessarily be interested in having competent and honest subordinates, rather than have it placed in the hands of men who are interested solely in securing jobs for those who are willing and able to labor for the political advantage of their benefactors?

Sixth. It is said that there are too many provisions in this proposed article and that it deals too much with details. There are, however, no details in it which are not necessary to create a suitable judicial department. There must be judges and other necessary officers and methods of their selection must be provided for. Power must be conferred upon them to perform their proper functions. These matters must be provided for in the Constitution if the judicial department is to be made an independent and coordinate department of the State government. The legislature needs no grant of power. The judicial department can have only such powers as are expressly granted to it.

With this brief preliminary discussion of general objections to the proposed article let us consider the main propositions embodied in it.

First. The proposition to unify our court system ought to be looked upon with favor and approval by any man possessed of ordinary business sense. The judicial department of the State government is one created for a single purpose, the administration of justice by means of judicial proceedings. It is a department which transacts a large amount of business involving the expenditure of a large amount of money contributed by the tax payer. Its different parts ought to cooperate with each other just as the different departments of a manufacturing corporation should cooperate and act in harmony with each other. Any large business enterprise which was divided into a number of different departments managed independently of each other, with constant clashes between different managing heads and disputes as to how much or how little work each should do, would speedily come to grief. There should be cooperation in the judicial department just as there should be in any important business enterprise. Such cooperation would increase efficiency and decrease expense.

Second. The proposition that the different parts of the judicial department should be subject to supervision and superintendence by the Supreme Court is one of the soundness of which does not admit of serious dispute. Such superintendence, if wisely exercised, will increase efficiency, decrease expense and lead to better methods of transacting business. That several hundred judges and several hundred clerks, sheriffs and other officers engaged in transacting the judicial business of the State should act independently and without any supervision or control is just as senseless as it would be if the managers and employes of a large mercantile estab-

lishment should act independently without any supervision or control by any superior authority. If the Supreme Court, by virtue of its superintending power, can contribute materially to the prevention of miscarriages of justice in the first instance of the inferior court, it will perform a much more important service than it can by reversing judgments after the miscarriages of justice have taken place.

It would not be expedient to commit this power of supervision to any other tribunal than the Supreme Court. To permit it to be exercised by a committee of judges of the circuit court would be much like empowering the subordinate officers of a business corporation to supervise the acts not only of their inferiors but also the acts of the board of directors.

The exercise by the judges of the power of superintendence would not interfere with the performance of their duties of deciding cases, but on the contrary would make them better fitted for such duties. If they were required to take an interest in the operations of the circuit court and to know how business was being conducted there, they would gain much information which would be useful in the adoption of rules of practice and procedure.

Third. The proposition that the power to regulate the practice and procedure of all the courts should be given to the Supreme Court is likewise one which ought to appeal to the judgment of sensible men. The framing of proper rules of practice and procedure is, as all must concede, a task of the highest importance. It is also a task of great difficulty. Its proper performance requires great labor, large experience and the greatest care. It is, without question, the most important as well as the most difficult work the judicial department will be called upon to perform and therefore it should be performed, or, what is practically the same thing, it should be superintended, by that branch which, presumptively at least, is best fitted for the task. In fact the making of rules of practice and procedure should be treated as a mere branch of the superintending power.

Aside from this it is important that the rules adopted should be valid rules and not in conflict with law, whether constitutional or statutory, and that parties to suits who rely upon these rules should not be subjected to the danger of having them declared invalid by the Supreme Court, which would be the case if they were made by the judges of the circuit court without the approval of the Supreme Court.

Finally, the success of the courts in giving the people a satisfactory administration of justice will depend upon the wisdom with which the rule-making power is exercised. If we wish to make the judges of the Supreme Court responsible for results we must not deprive them of the power to act according to their best judgment.

Fourth. The proposition to give to the Supreme Court the power to regulate the number of inferior officers of the judicial department, prescribe their qualifications and fix their salaries, is a power which must be lodged somewhere and the most fitting place to lodge it is in the tribunal which is made the superintendent of the judicial system. The power to fix the number of inferior officers, if properly exercised, will prevent overloading the judicial department with unnecessary employes. The power to fix their qualifications, if properly exercised, will protect the public against the employment in the business of the courts of incompetent and improper persons. The power to fix the salaries of inferior officers, if properly exercised, will insure to those who are employed proper salaries and prevent the payment of exhorbitant salaries. If the Supreme Court is to exercise a power of supervision and is to be held responsible for results, it surely must be given the power to protect the public against the present corrupt system of foistering upon the judicial department inferior officers unfit to properly discharge their duties.

If the power to regulate these matters is not given to the Supreme Court, to whom shall it be given? Proper action by the General Assembly on these matters certainly cannot be obtained. We ought to realize this after the experience of one hundred years with the regulation of the courts by the legislative department.

Power to regulate the number, fix the salaries and prescribe the qualifications of inferior officers is very different from the power to appoint them. There would be nothing of importance by way of patronage which would be given to the Supreme Court by this proposed article. Its power would be limited to the selection of its own clerk, marshal, and its assistants.

Fifth. The proposition that clerks, sheriffs, state's attorneys and assistant judges should be selected by appointment is one the propriety of which cannot be successfully disputed. The present system of electing clerks, sheriffs and state's attorneys is a system which breeds inefficiency, unnecessary waste of the public money and corruption. We shall never have a decent system of courts until it is abandoned and some system substituted which will insure appointments upon no other ground than merit. Is not the plan a good one which requires the Supreme Court to fix the number and salaries and prescribe the qualifications of inferior officers and puts the power of appointment in the hands of the judges under whom these inferior officers are to serve?

Sixth. The power to fix the fees and costs to be paid by parties to suits is one which it is expedient to confer upon the Supreme Court. It is a power which ought to be exercised with intelligence as well as with justice. The General Assembly has exercised this power for one hundred years and has kept in operation a system of fees and costs which is not only unsatisfactory in respect to the revenue it produces, but is also one which works injustice to litigants. Thus, for instance, in Cook county a plaintiff who commences in the circuit court a suit to recover a sum of money, however small, must pay a fee of $10 although he obtains judgment by default. No greater payment is required of a plaintiff in a suit in which there is a contest and a long trial by jury. A defendant, if he enters his appearance, pays only $3 whether there is a short trial by the court requiring only a few minutes, or a long trial by jury, the expense of which to the public may be several times the amount involved in the suit.

It would not be a matter of very great difficulty for the Supreme Court, with the aid of competent persons, to frame a system of fees which would make the courts nearly, if not entirely, self-supporting without any injustice to litigants and with proper provisions by which poor persons can prosecute suits without advancing costs. There is now in force a provision exempting a poor person from the payment of advanced costs, but to relieve himself of the necessity of paying this amount of costs he must employ a lawyer and the lawyer must do an amount of work in the way of preparing affidavits and attending in court proper compensation for which would amount to several times the costs which otherwise would have to be advanced.

How will we ever secure a proper fee system unless we commit to the Supreme Court power to create and introduce one? The members of the General Assembly could not do this work even if they would, and they wouldn't even if they could.

Seventh. Power given to the Supreme Court to superintend the business of the courts and regluate practice and procedure would permit the introduction of a system of keeping the files and records of the courts which would result in a large saving of expense to the taxpayer as well as a large saving of time to judges, lawyers, litigants, witnesses and jurors. Our present method of keeping our court records is clumsy and cumbersome. It involves the use of twenty or more words where one would answer the purpose much better. Besides it requires much space for keeping the files and records and the performance of the required clerical work which would be unnecessary under a proper system. How much could be saved by the introduction of improved methods cannot, of course, be determined with accuracy. It is certainly safe, however, to say that in Cook county alone the saving would be largely in excess of $100,000 per annum in clerk hire and rental value of space necessary for the performance of the work. That this estimate is a moderate one would seem to be proven by the history of the operations of the courts.

The circuit, superior and criminal courts of Cook county, with 31 judges, are held in three buildings. They handle each year not to exceed, probably, the equivalent of 30,000 common law, chancery, criminal and other cases. Their files and records are kept substantially as court files and records were kept a hundred years ago. The salaries of the offices of the clerks of these three courts for 1918 were $261,168.86. The municipal court of Chicago, with thirty-one judges, is held in twelve different buildings. It handles over 200,000 cases a year in each of which writs are issued and files and records are kept. Its files and records are kept in an improved form, its record entries being abbreviated, but just as intelligible as if they were kept in the ancient way. The salaries of the clerk's office for 1918 were $261,780.30. To have kept these records in the form in which the records of the other courts are kept would have involved an additional expense of at least $300,000 a year.

Of course such matters as these attract little or no interest from members of the profession. They ought, however, to be regarded by the tax payers as calling for a speedy remedy.

Eighth. The proposition that judges of the circuit court for Cook county shall be selected by appointment is one which, of course, will arouse discussion and controversy. Notwithstanding, however, the great amount of noise which will be made by those who advocate the selection of judges by election, it is believed it can be asserted with confidence that those who are most familiar with conditions as they now exist, and have existed for a number of years past in Cook county, and who realize the importance, and not only importance but necessity, of an honest and efficient administration of justice in Cook county, entertain the opinion that the only satisfactory solution of the present situation is the selection of judges by appointment in some manner which will prevent appointments on political or other improper grounds, and will secure the selection of judges on the sole ground of their integrity and their ability to properly discharge judicial duties.

It is said that "the people" demand that their right to elect judges shall not be taken away. But who are "the people"? There can be no doubt that men who are mere politicians and who thrive through their political activities will consider themselves "the people" and will insist upon the selection of judges by election, for the very obvious reason that they themselves will, in fact, although not in form, do the electing. Criminals and other violators of law, great and small, who realize that it is to their interest to have an inefficient system of courts, will likewise consider themselves "the people." There are also not a few members of the legal profession who reap, or think they reap, advantages from their connection, political or otherwise, with judges, who will insist that "the people" must elect. There are, however, other people in Cook county. They are people who are law-abiding and wish to see the laws properly enforced in the courts. They know how utterly inefficient the courts are and how much corruption prevails. They would like to see this condition of things ended, and it may be set down as certain that if the Constitutional Convention will formulate a satisfactory scheme for the selection of judges by appointment, and provide for a scheme of judicial administration which gives hope of the proper enforcement of the criminal laws, the law-abiding citizens of Cook county will support it and will be found to outnumber those who insist that "the people" must elect.

It has been urged that the selection of judges by election in this State has become a settled policy. It might be said with equal force that the filling of clerks', sheriffs' and other public offices with incompetent employes, who are selected solely for political reasons, has become a settled policy. Finally, it might be said with as much reason that it has become a settled policy in this State to have an administration of justice which, at least in the greatest city in the State and the second city in the Union, is discreditable. If these are settled policies, the time is come when they ought to be unsettled.

By the last section of this proposed article the unrestricted powers of the Supreme Court are to continue until 1931. If at the end of that time the

people, through the General Assembly, wish to make changes in sections 12 to 20, such changes can be made without the necessity of Constitutional amendments. If any protection at all is needed against an improper exercise of power by the Supreme Court, it can be found in this provision for legislative action. After 1931 the General Assembly, if it see fit, can regulate the manner of selecting judges for Cook county, the manner of selecting the chief justice for Cook county, the practice and procedure of the courts, the number, qualifications, powers, duties and methods of selecting inferior officers and the manner of selecting State's attorneys, and can regulate all salaries, fix fees and costs and decide upon appropriations.

This puts the Supreme Court on probation, as it were, until 1931. Surely we cannot be ruined or harmed very much by trying the experiment of conferring upon the Supreme Court for so short a time the power of inaugurating a satisfactory court system and requiring it to assume the responsibility which will necessarily go with such power.

The suggestions thus far made with reference to the provisions of this proposed article have been intended to explain them to the non-professional members of the Convention. It may be worth while to add a few suggestions for the especial benefit of those members of the Convention who are also members of the legal profession.

The proposition to create an efficient judicial system, operated by competent men and with the most modern methods of procedure, one which will dispose of business promptly and properly and will give every one a square deal, ought to commend itself to every member of the bar who is not obsessed with the notion that he is a trifle more skillful in the manipulation of the judicial machinery, with its present methods of operation, than those who may be his opponents, and looks with apprehension upon changed conditions which will not be so suitable for the exercise of his peculiar talents.

Improved methods will be advantageous to every member of the profession who wants nothing more than fair play. Such methods are certain to increase the business of lawyers just as improved methods have increased the business of physicians, surgeons, manufacturers and engineers. This increase in the business of the lawyers will work no detriment to those who employ them any more than the increase of the business of the surgeon has been injurious to those who have engaged his services. With an efficient judicial system lawyers can render many services to clients, with great advantage to clients as well as to themselves, which they cannot render now. This has been the experience of English lawyers since the introduction of modern and expeditious methods in the courts, and it will be our experience if we adopt modern and expeditious methods. Apart from this, lawyers will feel better and have more self-respect if the administration of justice is made what it should be. The profession, at the present day, stands very low in the estimation of the general public. It will continue to be discredited so long as the business of the courts continues to be conducted as it now is being conducted.

It must not be understood that any claim is made that the proposed judiciary article we are now discussing is perfect in all its parts, or that it presents the only scheme which will accomplish satisfactory results. There may be other plans more meritorious and practical. If so, let them be brought forward for examination.

The proper thing for the lawyers is to get together, study the situation carefully and impartially, try to agree upon essentials, and then, if necessary, compromise on mere matters of detail. Never let it be said that the Constitutional Convention of the third State in the Union has been able to do nothing more towards the accomplishment of court reform than turn the whole subject over to the tender consideration of future General Assemblies.

The Convention should not make the mistake either of postponing this matter for the consideration of future General Assemblies, or formulating a scheme of divided power and divided responsibility. There is no use of disputing the proposition that nine members of a Supreme Court who are

competent lawyers and honest men, if vested with all the necessary powers, can do wonders in the way of organizing an effective scheme of administering justice in the courts. They will have everything to gain and nothing to lose by performing their work to the satisfaction of the people. They will have everything to lose and nothing to gain by failure.

Mr. Chairman, and gentlemen, I thank you. (Applause.)

CHAIRMAN DEYOUNG. Gentlemen of the committee: I take it that no other person present will be heard on this proposal other than the members of the committee. Do you wish to proceed now, or take a recess until the afternoon?

Mr. DUNLAP (Champaign). Not being a member of the committee I will be very glad to hear from Delegate Miller (Cook) who I understand is one of the proposers of this question. I suggest we proceed until twelve-thirty.

Mr. MILLER (Cook). Mr. Chairman, members of the Committee of the Whole: I had not thought I would be asked to say anything on this subject to the members of the Committee of the Whole; there are a few things I might say here along the lines of what I said yesterday before the Judiciary Committee.

In the first place I would like to impress upon you the fact that there is not anthing experimental properly so-called in this judiciary article. The principal things that it seeks to accomplish are, first, unification of the courts under one head; second, the enactment of rules of court and the system of practice by the Supreme Court. Third, the practical appropriation—that is what it amounts to—of the money necessary to operate the courts by the courts themselves by the Supreme Court. Fourth, the selection of judges by appointment in Cook county, not of the Supreme Court nor of the circuit court outside the county.

Take them in order, I wish to say just a few words on that subject of unification of the courts under one head. That now is practically in operation in the Federal Courts. We have, it is true, the Court of Appeals and the Circuit Courts, two courts, but the judges are interchangeable.

The Supreme Court has a very large supervisory power over the trial courts, the making of rules for the practice in admiraty, in equity, and in bankruptcy and a movement is on foot to extend that to the practice at common law. We have that system of unification of the Superior Court in England which has been the practice there for years. So far as the selection of judges is concerned by appointment, of course we have had that in our federal system from the beginning of this government. We have it in seven Eastern States, it prevails in Canada, it prevails in England and I think it is entirely safe and conservative to say it prevails everywhere where the laws are well enforced. It is no secret among us lawyers that when we want the laws enforced we try to stay in or get into the Federal Courts, and that when we do not want the laws enforced we try to stay in or get in the State courts. I am speaking now of those of us who practice in Chicago. As to the independence of the judiciary so far as expense is concerned, the practical appropriation by the judiciary of money for the operation of the courts; in this State now of course we know that the legislature appropriates annually a small sum, a small percentage of the money collected by taxes from the people of Illinois. Cities appropriate all over the State, school boards appropriate all over the State, park boards appropriate, also county and township officers, and the amount that these agencies appropriate and levy is far in excess of that that is appropriated by the legislature.

Turning to another subject: When we are called upon, if we are, to frame a court system or to consider the question whether we should leave in force the one we have: Is it not well to consider this as to whether or not a system like this would be looked upon with favor? When we find two men trying a lawsuit which involves very much less than expenses to themselves in trying that case, we attribute that fact to temporary insanity, and yet we find this thing to be true in Cook county; by the statistics we find that in Cook county the actual amount of the judgments and decrees

rendered by the courts, the circuit and superior courts, two courts of general jurisdiction—annually is actually less than the direct expenses in the way of salaries and so forth in operating those courts. If we add to that the expense which is not figured, for instance rent, heat and light, if we add a proper proportion for the Supreme Court expenses for reviewing cases coming from Cook county, if we add the Appellate Court expenses for reviewing those cases coming from the circuit and superior courts, if we add the amount actually lost by jurors themselves over and above the amount they receive—three dollars per day—and figure that a juror when he gets three dollars a day loses three dollars from his own work, and add annually a very small sum, a very inadequate amount for what is paid by litigants to their counsel, we find that we have a total sum of more than twice the total amount of the judgments and decrees rendered by the circuit and superior courts in Cook county, and from those figures I think it is fair to infer that the costs of operating the courts in Chicago exceed the total amount involved in those trials. I am speaking now only of the amount expended in the operation of the civil courts, not of the criminal courts. Can we do otherwise than conclude that something is vitally and fundamentally wrong with the court system which costs more to operate than the total amount involved in litigation which goes on and is settled in those courts? Let us refer to one other thing, and I have taken the figures from Cook county. We find of the cases appealed, and most cases are appealed up there where there is anything particularly involved, 41 per cent are reversed by the Appellate or Supreme Court. We have had many proposals in the legislature and some legislation in the legislature, but more proposals for restricting reversals by the upper courts. My own observation, and I think it is the observation of others, is that our Appellate Courts do not as a rule in this day reverse cases unless they think the complaining party has had an unfair trial. They may give some other reason, they may give a technical reason, but their real reason is because they think the party has not had a fair trial, and inasmuch as they reverse 41 per cent of these cases, is it not altogether fair to assume that they give the benefit of the doubt on that subject to the appellee? Isn't it fair to assume they affirm cases where they are seriously in doubt as to whether there has been a fair trial? Isn't it the judgment of those of us who have had a great deal of trial work that a less number of cases are reversed than ought to be reversed if all those were reversed where the complaining party did not get a fair trial? Isn't it the wise thing, if that is the fact, is not the way to remedy that by seeing to it that the trials in the first instance are fair, are conducted fair and wisely and properly rather than to restrict the reversal? My experience, and I venture it is the experience of the rest of you is that there are less cases reversed than ordinarily ought to be reversed, a less percentage rather than a greater percentage whatever the reason may be assigned by the courts. Now, if we add just a little to the 41 per cent we reach the inevitable conclusion that the courts function properly in about half the cases, just exactly what would happen if they were decided by chance. Now, a system of that kind of courts, there must be something fundamentally wrong with it. If we were called upon to first adopt a system, being told in the beginning that it would cost more to operate than the amount involved, that the chances of its being correct in the first instance were about the same as would be obtained by chance, and that there is also great delay, many reversals—great delay I mean by reversals and retrials—I think it not unfair to say that such a system would be rejected at once.

Now, let me say just a few words on the subject of unification under one head: The system here proposed is to all intents substantially the same system that was proposed and reported by a committee of the American Bar Association appointed in 1907 who reported in 1909 after two years of work. Upon that committee were such men as Judge Amadon, United States Circuit Court judge of the ninth circuit, one of the ablest judges of our federal courts of appeal, and other men of equal standing. That system for the unification of the courts was a little more radical than this; it proposed

that instead of having two courts, a Supreme Court and another court, it should be one court, a court of original jurisdiction and a court of appeal and that there should be one court for transacting all the business of the courts. They considered that the settlement of disputes between men should be committed to courts to be divided into branches of original trial and a court of review. In other respects that part of this article which is really the scheme and the plan is substantially in accordance with the report of those gentlement made after two years of careful study. There is nothing novel about that. As to the rules of court I will say very little if anything upon the question of the propriety of having the rules and the procedure enacted by the Supreme Court. There is nothing novel, there is nothing experimental about it. It has been done in England for many years with satisfaction. It is being done in our Federal Courts with satisfaction. That is to say in three of the four branches of law in the Federal Courts as I have mentioned, I have not heard of a complaint about that. I believe the rules are good and are satisfactory and well calculated to dispatch business. We have the same system in New Jersey and in Colorado, and it has been authorized by the Constitution recently in Michigan. There is nothing experimental about that; obviously if the rules are so framed they can be frequently changed when they are found not to meet the conditions. As to the independence and expenses, I have said already all that I care to say.

We come lastly to the question of selection of judges, and on that subject I would like to speak a little more fully.

This proposal provides for appointive judges in Cook county. It does not provide for appointive judges down the State for the reason that as I observe it seems to me that almost any system of selecting judges, whether by partisan nominations, preferential primary or whether by non-partisan ballot or whatever the system may be, fairly good results are obtained in the smaller communities where the voting population is comparatively small, so a very much larger percentage of them know of the standing of the candidates, and where the number of judges to be elected is small, so that the electorate may pass with some degree of intelligence upon the qualifications of those men, but in Cook county the situation is wholly and entirely different. We members of the Chicago Bar Association cannot fail to appreciate that, because it is an actual fact that when a candidate runs for the office of judge, as a rule he is not known personaly to more than a thousand members of the Chicago bar, perhaps a great deal less, and perhaps is not known even by reputation to more than one thousand members of the Chicago bar, which is only about a quarter of the practicing lawyers and about one-sixth of the actual members of the bar. I remember of being on a committee about two years ago for the passing upon candidates for judges of the municipal court, and there was a very small percentage of those candidates that was known to any member of the committee, and the members of that large committee were, outside of myself, men who were very largely active in politics. We have in Chicago, or rather we soon will have, one million voters; it is impossible to figure out how more than one-tenth of one per cent of the voters, especially when a candidate is first running for the office of judge, can have an intelligent understanding of the fitness of that man for office. Now, if that statement is true, and I believe that on reflection every one of the Chicago delegation here will agree with it, that only one-tenth of one per cent is able to discriminate; doesn't it follow naturally and inevitably, that that method of selecting judges is no more intelligent and no more calculated to produce good results than a selection by lot from among the members of the Chicago bar? I am speaking now if we rely upon the intelligence of the voter, and try to select them in that way; is it any more likely to produce good results, or is it any more intelligent than would be the selection in the same manner of the surgeons who operate at the county hospital, or of the school teachers or any one of a large number of officers of that kind we can mention in Chicago? Now, furthermore, we sometimes have twenty judges to be elected at one time, I think sometimes more than that, but I know twenty; we will have on the ballots sixty to eighty names to be voted on. How long would it take the average voter to qualify himself

if he devoted his whole time to it, to vote intelligently upon those eighty names? Is it not entirely conservative to say that he could not do it by spending one day apiece on these men? Now, how can we expect men to exercise the franchise given them if we place that sort of burden on them, and what right have we to complain that men do not try to exercise their franchise when we undertake to place on them a burden they cannot carry? What is the result when we attempt to place on them a burden that we know they cannot carry? Of course, they do not carry it and the result is that inevitably they delegate that, or rather the choice is taken away from them by the ward committeeman or someone else who spends his time on that matter. The voters do not do it because they cannot do it, and the result is that that power is thrown into the hands of a few men, and those few men select the candidates and they are not responsible appointers of judges. In other words, we have appointments now; we have no elections by popular vote; we cannot have elections by popular vote under the system we have there with a million voters and 73 to 75 judges; it is impossible; no intelligent choice can be made, and the result is that it is done by a few men, and that in this attempt to reserve to popular choice the selection of all these men the exact opposite thing is done, and it results in an appointive system, but the appointment is made by irresponsible parties. It is true the newspapers help us some in these matters. The Daily News and the Tribune print tickets to help voters, but they never agree on the tickets, and I want to suggest also that while we appreciate the neswspapers, perhaps we are not ready to turn over our franchise to the newspapers any more than we are to anybody else or to any voluntary organization any more than we are to the ward committeemen; but if we are to turn it over to somebody, we ought to turn it over to some responsible head who has an interest and who is employed to do that thing whom we can hold responsible for it. Now, it is a little interesting to me to note this fact; I speak of this at length because to my mind, while the other things in this proposal I regard as vital, it seems to me that this question of the selection of judges in Cook county is the most vital of all, because there is not any sort of system anywhere, school system or any other system, no matter how well it is framed, that will work without a proper personnel. That needs no argument. There are few businesses so poor that a good man cannot make a success of them, and none so good that a poor man cannot make a failure of them. I am spending a little more time on this matter for that reason; let us turn for a minute to the Federal Courts. There was a time not many years ago, when the Federal Courts were considered more or less reactionary. That is not the situation today, as we all know who practice in both courts. They are less technical than the State courts. Their practice is less technical; they are less impressed by technicalities; fewer cases are thrown out on technicalities; there are fewer reversals, there is less delay. Of course, we have a clogged court in Chicago, because Congress has failed to give the proper help in the lower courts, but ordinarily there is very much less delay in the Federal Courts than in State courts; in the Court of Appeals in Chicago in the last 17 years, there have been just four appeals dismissed for some technical reason. In other words, there have been four cases in that 17 years in which that court has failed to go to the merits of the controversy. Now, that is a pretty good record, and I myself have come in contact with cases in the Federal Courts of Appeal in Chicago and elsewhere where they have taken measures never heard of in our State courts for the prompt disposition of business and to avoid the reversal of a case and send it back for retrial. I have noted a number of those instances, but I will give just one which I think will illustrate it; a case occurred in Chicago where there was a judgment for personal injuries given against a railroad company, and the railroad company appealed and made the point that the plaintiff had not proved that the defendant operated the train that injured the plaintiff. The Court of Appeals found that that was true, but that was the only error they found there that was worthy of consideration, and they reversed the case with directions to take evidence on that subject alone, and to render judg-

ment for the same amount if they found that the defendant did operate it, and to dismiss the case if they found it did not. Now, that is one instance of a number of similar cases that I could refer to. There is less technicality, and the appointive judges I think at the present time are just as fair, if not more so, and just as careful to protect the rights of the poor man; in Massachusetts they have the appointive system and the universal testimony is, as I get it, that in personal injury cases the judges are just as careful as anywhere in this country to see that the poor man gets a square deal.

Upon this question of selection of judges, of course we all know this, that if we choose them by our present system we at once eliminate from the choice a very large number of lawyers, and of good and competent lawyers who are not willing to advertise their competency to sit on the bench in order to secure the position; a very large percentage, in fact of all the men who are competent and fit for those positions are unwilling to go out and advertise themselves for those positions. Of course it is a perfectly well known fact that in Chicago where the State courts pay $12,000 a year and the Federal District Courts pay exactly half of that, you can get the best lawyers in Chicago to take positions on the Federal Court bench while it is not often—it sometimes happens—that you can get the best lawyers in Chicago to take positions on the State court bench, it is seldom that you can get the best lawyers to take positions there in the State courts. I think that is a rather significant fact. Of the many I have talked to on this question of appointive judges in Cook county, in every instance, the reply has been that we can certainly get better men that way; nobody has questioned that for a second. The only question that has been raised has been the question as to whether or not the people would consent to this taking away of their supposed power of electing the judges. I, myself, have great confidence that they would consent to it when the matter is explained to them. All we have got to do in the first place is to show them at the present time they do not do it. All they do is to choose between a set of candidates named by one set of ward committeemen and a set of candidates named by another set of ward committeemen. That is all they can do, They cannot make an intelligent selection themselves, and that is the most they can do, and in nearly every instance except in the June election and sometimes then the result is determined solely by the general political drift at the time of that election, so it is not difficult to convince any man that at the present time whatever the law says, whatever the Constitution says, he does not exercise that right today, and the result at the present time is to throw the matter into the hands of irresponsible appointers. We still have the appointive system. Now, let us take another view of it: Isn't it true that today in Chicago we have officers chosen by appointment and not by election whose positions are much more important to the people at large than the positions of any individual judge. No one will deny, I think, that our school system which is engaged in educating the boys and girls who are to be the Governors of this country tomorrow or next week is engaged in the most important governmental function. It touches every man, woman and child nearer than most anything else, and yet in Chicago the general superintendent of the school system is appointed. Every member of the School Board is appointed. I do not mean to say that ideal selections have always been made by that method, but who is there acquainted with conditions in Chicago that would for a moment suggest or advocate the election of those officials, or contend that by so doing we would secure a better grade of officials or more efficient schools? As a matter of fact just the contrary, as you and I know would be true. They are not the only ones. We have three great park systems in Chicago which are quite near to the people. They are governed by appointive officers. The appointments have not always been perfect, but as a rule the appointments have been pretty good, and the administration of them has been pretty good, and these officers as well as the school officers not only administer, but they levy taxes. Two of the systems have appointments made by the Governor untrammeled, the other by the judges, and no one would suggest that we go to an elective system there. We have the heads of the city departments, corporation coun-

sel, chief of police, commissioner of public works and other officers of that kind of great power and responsibility, offices which have ordinarily—not always—been filled by fit men. The office of Corporation Counsel is ordinarily filled by one of Chicago's leading lawyers, but not always; who would contend that we would better conditions if we should elect all of those officials? Is it not fair to assume that the Chicago voter as well as the down-state voter will see that experience has taught that these officials whom I have mentioned are better appointed than voted for upon a so-called popular ballot, that we can safely entrust the appointment of judges to the Governor on recommendation by the Supreme Court, the Supreme Court being the power that is responsible under this system for the operation of the whole system. The judges of the Supreme Court under this plan are the head of the system, they are responsible for its operation, and the better the lower courts work the less burden they will be on the Supreme Court, and if it does not work right it will be largely because of improper appointments. If there is dissatisfaction with it it will be largely because of improper appointments, and it will come back on the Supreme Court. Is not that more likely to produce good results than the other system of irresponsible appointments, and is it not fair to assume that the average man can be made to see that, and that he will be willing to submit to that kind of selection rather than to the selection by an irresponsible ward committeeman? Let me say just a few more words: It is the experience of all of us who have had very considerable experience in the courts that a strong court makes a strong bar and a weak court makes a weak bar. Our Federal Courts are notoriously better on the average than our State courts, and weak lawyers naturally gravitate out of the Federal Courts we all know, and of course it is the common observation of every practicing lawyer in Cook county that cases are tried every day in the courts of Cook county that would not be tried in the Federal Courts. Why? Because of the weakness either of the plaintiff's case or the weakness of the defense. They never would stand up and attempt to go through that case, and isn't it the experience and observation of every Chicago lawyer, at least, that cases tried in our courts often take five or six times as long as that same case would take to be tried in the Federal Court and be tried with fairness, too? Why? Because the judge does not wish to offend the lawyers, he goes the limit in giving him time and everything he wants. Now, that is a common observation there and I am sure nobody in Chicago will dispute me on that question.

Now, I want to say just a word about the suggestions that are made in this proposal for the method of selecting judges and the method of retiring them. The proposal provides for an elastic system in that regard as to the number of judges. If more are needed to keep up with the business the Supreme Court so certifies and they are appointed. Where a vacancy occurs, either by death, resignation or otherwise that vacancy is not filled unless the Supreme Court certifies that it is necessary to fill the vacancy. That gives opportunity also to reduce the number of judges. My own judgment is that with this system in operation we would have occasion to reduce the number of judges in Chicago very materially before many years. The system proposed for the selection of them is that the judges of the Supreme Court who have Chicago lawyers before them every day they sit will certify an eligible list of not less than four to the Governor and the Governor choose one from that list for the vacancy. As I look upon it, that does not encourage political appointments because the judges who certify the eligible list have no means of determining which one of that eligible list is to be appointed for those positions. Now, then, there is what somebody has called a recall; I do not think that is the proper term, recall, but every six years all those names are to go upon a ballot to be voted upon, upon this question solely as to whether or not that man shall remain on the bench, not as to the question of whether he or some other name on the list shall be chosen for that place. Neither is it permitted to place his name on the ballot immediately after perhaps he has incurred some popular displeasure of some class because of doing his duty in some particular. This thing happens automatically, once in six years. I am not saying that that is a perfect

system, but I say this, that every reason that can be urged against that, that is to say making the judges more or less subservient to political influences or public opinion, every reason of that kind that can be urged against it exists today, whereas the method of selecting judges, I think, provided here is very much more intelligent than the method which exists today. Furthermore, I make this suggestion, that in Chicago we members of the Chicago Bar Association who vote upon judges at a bar primary, when they are to be elected, we know that the men longest on the bench and the man on the bench almost invariably can remain there, and the new candidate, be the new candidate ever so competent a man has little chance, simply because the man who has been on the bench is better advertised, I take it. I know of no other reason, but that is the universal experience. Now, from that fact I take it that the man who is on the bench and who is voted for in this way will seldom be retired unless he is notoriously unfit. He does not run against some other man and therefore the other man's friends are not working against him. No one can have any purpose in working against him except because of his own inherent unfitness, and the chances are that under those circumstances the recall would seldom be used.

Now, gentlemen, I thank you for your attention; that is about all I have to say unless there are those of you who wish to ask questions, which I will try to answer to the best of my ability.

Mr. CRUDEN (Cook). Do you know of any demand having been made by the judges of the circuit or superior court of Cook county to be included in any direct primary law?

Mr. MILLER (Cook). No.

Mr. CRUDEN (Cook). Do you know whether they have been opposed to that?

Mr. MILLER (Cook). I do not know anything about it one way or the other.

Mr. CRUDEN (Cook). We have had a very severe condemnation of our Cook county system of courts and the method of electing them, and I think it should not go by until that side is heard from. I am of the opinion that a great many of the judges have been inclined to keep themselves outside the direct primary law in order that it would be less expensive in carrying on two campaigns. I have been in favor of including them in the direct primary law. Of course they are nominated by the political committeemen that have been condemned here so severely today, but when they have been returned several times I should imagine the committeemen had performed a fairly good job.

Mr. MILLER (Cook). They have to return one side or the other.

Mr. CRUDEN (Cook). This condemnation by Mr. Miller (Cook) and by Mr. Gilbert would be like a grand jury proceedings unless we hear from the other side. Mr. Gilbert said that the clerks of the courts and all of the county officials had never asked for fewer men and women to be employed in any office. Everybody knows that the population of Chicago is growing by leaps and bounds, and it is impossible for them to have fewer employes in their offices. Everybody here knows or should know that the judges of the circuit court of Cook county determines the number of employes in each office and they do that every year, and if there is anything wrong about that it must lay on the shoulders of the judges and not on the clerks and the other officers, and before we are through with the hearing I should say that the chairman ought to hear from the sheriff and the clerks of the court and the judges as to whether they are supplied with men enough to take care of their offices. I know judges who have appealed to the men in public office to leave the clerks and bailiffs with them until they could learn the business.

Mr. TODD (Peoria). I believe there are men in the committee who would like to ask more questions of Mr. Miller, and I believe we should recess until after lunch and give Mr. Miller an opportunity to be examined properly. I move we recess.

Mr. DIETZ (Rock Island). For the reason that Judge Martin of Cass county is here—I know he has made a very careful study of this question,

and I think the subject is worth while, I believe we ought to recess, not only for the reason stated by the delegate from Peoria county (Todd), but for the reason that we might be able to hear from Judge Martin.

(Motion to recess prevailed.)

Whereupon a recess was taken by the Convention until Wednesday, February 11, 1920, at 2:00 o'clock p. m.

TWO O'CLOCK P. M.

The Convention reconvened as a Committee of the Whole, pursuant to recess.

Chairman DeYoung presiding.

CHAIRMAN DEYOUNG. The committee will come to order and we will resume Proposal No. 56. Mr. Miller (Cook) has the floor.

Mr. MILLER (Cook). Gentlemen, there are just about three minutes more that I wanted to consume and touch on other matters that I did not mention this morning, very briefly, and one is this:

Question has been made of course about the Supreme Court making rules and the system of practice, and those who do not live in Cook county I would like to remind of this fact. In Chicago for something more than ten years we have had a municipal court. There are thirty-one judges. The statistics of that court demonstrate the fact that that court with its thirty-one judges does about four times, between four and five times the business that the circuit and superior courts do. They have forty judges and some of them sit in the Appellate Court, but between four and five times the amount of business. Now, it has been stated by Chicago lawyers, I think, that perhaps two-thirds of the judges sitting in the court are not men of the learning who ought to sit there, the kind who ought to sit there, yet with that poor material and with the centralized control that is the result, and I do not see there is anything in the world to attribute that to, that efficiency except the centralized control and the rule making the powers of the court. No one in the world can read the report and the statistics of the work they do (and in the main it is done satisfactorily, not always by any means), without being astounded at the result as compared with the circuit and superior courts in Chicago. That court has no limit to its jurisdiction in contract cases, the sky is the limit, and they try some important cases and a good many of them. Now, the court there has enacted a system of practice, a statement of claim, of a claim under oath and affidavit of defense, no pleadings to speak of, nothing but that, the simplest possible practice, and nobody finds it difficult in stepping from the superior and circuit courts to the municipal court and trying cases there. There has been no abuse of the power to make a system of practice, and the system they have adopted in that respect has been satisfactory; that is because they have employed some one to work it out and they have approved it. So much upon the question of centralized control and of the rule making power. It has worked all right in the United State Courts, it has worked all right in England, it has worked all right in New Jersey, and I see no reason why it should not work all right with the Supreme Court of Illinois as the head and rule making power.

Mr. DUNLAP (Champaign). Will you explain what you mean by centralized control?

Mr. MILLER (Cook). The Chief Justice is elected, and he has power to direct what the judges shall do, what work they shall do and divide up the work, divide it into five or six or seven classes, so one man is on a particular kind of work and who becomes familiar with it and can dispatch it more readily. The control of the court is largely centralized in the Chief Justice, who is elected as Chief Justice.

Mr. TRAUTMANN (St. Clair). Do I understand your provision in Section 12, on the top of page 6, provides for a vote on a recall every six years on all judges.

Mr. MILLER (Cook). Six years after the judge takes his office.

Mr. TRAUTMANN (St. Clair). He could lose his office on a recall vote?

Mr. MILLER (Cook). Yes.

Mr. TRAUTMANN (St. Clair). He could also lose his office by a three-fourths vote in the General Assembly?

Mr. MILLER (Cook). The same as now.

Mr. TRAUTMANN (St. Clair). There are two ways of removing him.

Mr. MILLER (Cook). Yes.

Mr. TRAUTMANN (St. Clair). What I want to ask is this: I do not quite get the line of reasoning here; if the people have nothing to say with reference to the election of the judge, why then should thy have anything to say with reference to the recall of the judge? Why is the provision made that either the appointing power, which in this case is the Governor, with the approval of the Supreme Court, shall not remove instead of the recall? My objection was this, Mr. Miller, that if a man's name is submitted for recall and he should be unfortunate in having rendered a very unpopular opinion which might result in recall and might be very unfair and unjust, but the clamor of the people at that time would recall him, which would not obtain if the power that appointed him removed him.

Mr. MILLER (Cook). My answer is this: In the first place that objection which you mention applies now. In other words the system would not be any worse in that respect than at the present time. Under this system the whole court would not be on the ballot at once, but each one every six years and their terms would not all end at the same time. Now, there is a certain incongruity in that item, though you can say this in favor of it, that the people are better qualified, certainly, to pass upon the qualifications of a judge after he has sat on the bench six years than before he has ever sat at all, and the reason, so far as I am concerned, why that was put in was to make the thing more acceptable, less liable to criticism by those who claim that the people should have the right to pass on the judges. The suggestion was made yesterday by Mr. Hamill (Cook), also by yourself in the committee room why would not it be better to give the appointive power the removal power. So far as I am concerned I think it is more logical.

Mr. MILLS (Macon). What provision is made in those courts for prosecuting as a poor person?

Mr. MILLER (Cook). There is a statute to that effect now, and this would not affect that, because the statutes under this proposal, the statutes relate to and practically remain in force except to the extent they are repealed by the Supreme Court.

Mr. MILLS (Macon) What provision is made for reporting the cases in the trial court, in the municipal court, for reporting the evidence?

Mr. MILLER (Cook). Nothing except what is now made by statute.

Mr. MILLS (Macon). Does each court have its own stenographer?

Mr. MILLER (Cook). This makes no provision, this does not purport to legislate on that subject.

Mr. MILLS (Macon. What is the practice now, I want to know how it is affected now?

Mr. MILLER (Cook). In that respect it is not affected at all, it remains just as it is.

Mr. MILLS (Macon). As I understand it, in trying a case in the municipal court each side has its own reporter, and they take the evidence for each side, and then in referance to the prosecuting and defending as a poor person there had to be an affidavit prepared, and the attorney is allowed ten dollars for filing that affidavit. Those are some of the things I wanted to inquire about.

Mr. MILLER (Cook). The way I answered that is this, that is only perhaps one of the absurdities of the present law; I think there are more. This proposal does not seek to change any of those things, but it does leave it in the power of the Supreme Court to change any of those things and to make them logical where they are now illogical.

Mr. MILLS (Macon). You referred to the efficiency of these municipal courts and I wanted to know how those things were arranged in the trial of those cases.

Mr. MILLER (Cook). In Chicago we have no official reporters, but each side gets its own reporter if they want the case reported. I am not contending that the municipal court is a paragon of efficiency, all I am contending is that the statistics prove it is several times as efficient as the circuit and superior courts.

Mr. MILLS (Macon). You say they file an affidavit with the claim and then file an affidavit of the defense, and that is for the purpose of simply stripping all the outside matter, just the one main issue and not have the case decided upon some pleading?

Mr. MILLER (Cook). It is to reduce it to the one issue that has to be tried. This question of consolidation in Chicago, we have eight different courts of record, eight different clerks' offices; there is no reason in the world that I can see, or has ever been suggested to me why one clerk's office could not do all the business for all the courts in Chicago, or why there should be any more than one. Of course, if we applied that to any business we would say it had eight times as much overhead as required; of course, if that is all transacted in one office, it should be transacted more efficiently, if transacted under one head. Why should it be that any person having a claim to put at suit, living in Chicago, should have more than one court to go to, to file that suit? At the present time he has three or four and in some places he has five. There is no occasion for all that so far as I can see. Upon this question of the consolidation of the courts, I thought of this illustration: We have something like 73 courts in Chicago. Suppose we pick out a city in this State, and there must be such a one, that has 73 school teachers. Suppose we elected them all by popular vote, without a head, and set them to work. Inevitably they would impose some sort of organization on themselves voluntarily, but is it not true that they would be to a great extent inefficient and inoperative, and each one would teach school according to his own idea, and that is inevitably what we have, and just for the same reason, in Chicago courts.

May I say just this one word about Federal Courts? This morning I said, and I think it is the observation of every one familiar with the courts, there was a time, fifteen or twenty years ago, when those courts were regarded as arbitrary, reactionary and to some extent unsatisfactory. There is no doubt but that has changed. What has caused that? The fact is, the change has been coincident with another change; that far back, as we all know who have practiced law the Federal Courts had a very limited jurisdiction; they did not touch the people very closely; there were not very many people hurt by them, but the tendency has been all the time to put things more and more in control of the Federal Courts. That has been the purpose, I think one of the purposes, has been because the Federal Court enforced the law. Anyhow, whatever the cause of it, we all know that Congress has passed laws affecting different interests, the Interstate Commerce law, federal trade law, this law and that law, and creating functions and giving jurisdiction to the Federal Court so that as time has gone by the Federal Courts have come more and more in contact with the people and they have touched the people more closely, and the reaction has been there have been complaints in the press and elsewhere and there has been a response by the Federal Courts to those demands, and they have gone further than any other court in simplifying their practice and stripping it of technicalities and delays. That is the way the matter seems to me. Now, just another word about the practice in Chicago and the multiplicity of courts. I have a case in mind, some of the rest of you know about it, where a case involving millions was tried in the probate court involving a will said to be forged, and the Probate Court so held after sitting on the case a year and a half. The court took eight weeks to try that case. I happened to be in the case, one branch of it, and now it is about to be tried in the circuit court again, the same evidence, the same

eight weeks of work for court, court bailiffs clerks and lawyers on both sides, plenty of them. Now, is there anything that can more completely demonstrate the inefficiency of that system? The court that is going to try the case will not be any more careful or any more competent to try that case than the judge of the probate court. That could not happen with a consolidated court. I think that is all I have to say. If there are any questions I will do my best to try and answer them.

Mr. McEWEN (Cook). Speaking of the municipal court, isn't it a fact that when it was organized it took over the jurisdiction of all the justices of the peace of the several towns within the limits of the City of Chicago, including Lakeview, Jefferson, North, West and South, Town of Lake and Hyde Park and some forty odd justices of the peace who had jurisdiction of a large number of small claims, doctors' bills, little grocery charges, and all of that business has since gone to the municipal court, making a large number of cases, most of which are not contested, and judgments are entered by default. Does not that branch of litigation largely make up these figures which make it appear that the municipal court disposes of a large amount of business?

Mr. MILLER (Cook). Judge McEwen, do you mean the figures of the number of cases, or the figures in the amount of recoveries?

Mr. McEWEN (Cook). In the number of cases.

Mr. MILLER (Cook). It probably would, but the amount of recoveries also is about four times the total recoveries in law and chancery in the circuit and superior courts.

Mr. McEWEN (Cook). Is it not true that a great deal of business of the courts of record consists in the trial of cases where the results do not show in dollars and cents?

Mr. MILLER (Cook). Of course, in the trial of chancery cases, bills to quiet title, yes; on the other hand, we have the expenses of the court easily figurable at more than twice of the recoveries in both courts so that my conclusion is—it may be wrong—when you consider that then you at least have the expense of operating the courts greater than the total amount involved anyhow, not twice, but greater.

Mr. McEWEN (Cook). Do you think that a case in the municipal court, where there is concurrent jurisdiction with the circuit court, could have a trial fairly and fully in the municipal court in any less time than it can be tried in the circuit court?

Mr. MILLER (Cook). Now, when you get your case at issue, and get down to trying it, you have a jury and you get at it, I see no reason why it should be tried any quicker in the municipal court than any other.

Mr. McEWEN (Cook). Do you believe that the procedure in the municipal court, where it varies from the common law procedure of the circuit court, is any improvement in saving of time or the clarifying of the issues, or in the promotion of justice?

Mr. MILLER (Cook). I do not think it is any very great improvement, no. I answer that in this way, that personally I think that we Chicago lawyers have gotten down to the point we are so busy we do not pay so much attention to the pleadings, we guess at what the other fellow means, and we go in and thresh it out. I used that illustration for the purpose of demonstrating if I could there is no danger in giving the Supreme Court the rule making power, it is not likely to be abused; there is nothing so novel about it that the lawyers practicing in the other courts cannot go in there and practice just the same.

Mr. McEWEN (Cook). In the proposal submitted by you the circuit judges downstate, outside of Cook county, are elected?

Mr. MILLER (Cook). Yes.

Mr. McEWEN (Cook). Is it your opinion that the conditions down the State are so different that an election is justified there, where an appointive system should be applied in Cook county?

Mr. MILLER (Cook). There is no doubt in my mind about the appointive system being desirable and necessary in Cook county. As to the desirability of it outside of Cook county, I have not undertaken to express any opinion. It seems to me it is for the men down-state to express their opinions on that. My general impression is that most any sort of system works all right where everybody knows the candidate.

Mr. McEWEN (Cook). Is it your opinion there is any difference in quality or character between the average judges in Cook county and the average of judges throughout the State?

Mr. MILLER (Cook). Yes, there is.

Mr. McEWEN (Cook). Do you think that it is to the advantage of the judges down the State?

Mr. MILLER (Cook). Yes.

Mr. McEWEN (Cook). Do you agree with Judge Gilbert in his statement here this morning wherein he said that the criminal and the lawyers and the bar generally want to retain the old system in Cook county, while those who wish to eliminate the corruption of the courts in Cook county would prefer the appointive system?

Mr. MILLER (Cook). I have no knowledge or any belief that the courts of Chicago are corrupt in any respect, and I do not agree with that statement.

Mr. McEWEN (Cook). Assuming that the appointive system is desirable, why should not the appointive system be applied to the judges of the Supreme Court of the State?

Mr. MILLER (Cook). Because six out of the nine are elected from down the State, three coming from Cook county; we cannot provide for appointment unless it is an appointment by the Governor. There are only three, and they are to be elected once in twelve years; so small a number and so seldom elected it seems to me the danger would be very much less than the danger of electing the judges we have in Cook county. My preference, and I think they would get better results by appointive system even for the judges of the Supreme Court from Chicago, but I do not fear very much the result of the election of the Supreme Court, and my idea has been that if the Supreme Court was to name these judges, it makes a very good argument in favor of the appointive system that the men who are to name the judges are elected by the people. That is my explanation of that.

Mr. JARMAN (Schuyler). Do you think in this plan you have considered the issues down the State sufficiently?

Mr. MILLER (Cook). In what respect?

Mr. JARMAN (Schuyler). With reference to the number of judges and the one court system.

Mr. MILLER (Cook). As regards the one court system, I am glad you asked me that question, because I had overlooked that; it seems to me that the one court system outside of the Supreme Court—in other words the unification has been very generally endorsed and approved by law writers, students, judges and those who have given the matter a very great deal of thought; there is nothing novel about it; it has been approved by so many and has been tried in a number of places. Now, so far as conditions down the State are concerned, this proposal would operate in this way: There would be four circuit judges, more if the legislature saw fit; these judges would have all the jurisdiction that there is below Appellate, and it would be their duty to appoint assistants, as masters in chancery, to do the probate court business and some of the county court business which falls within the line of administrative work, and also men to do the justice of the peace work. Now, it has been my idea and the idea of those I have conferred with, and I might say right here this measure I have offered is partly based on Judge Gilbert's article and partly on suggestions of others; I have tried to get every light I could on the matter; all the proposals I have read and all the articles I have read from everywhere propose a unification and the consolidation of the courts, and the idea is to give these certain courts the power to appoint their assistants to do that work. The justice of the peace

system, of course if the people down the State want to retain that, nobody in Chicago ought to object. I had supposed that the sentiment against that was pretty strong, I have heard a number from down the State talk of it. It gives the justice of the peace an interest in the case he is trying not to be fair and square; of course some men rise above that interest, the same as some masters in chancery rise above that interest, but that would abolish that. I have not heard suggested any other way to accomplish the results than the one mentioned here.

Mr. JARMAN (Schuyler). Then your plan contemplates with reference to down the State that the courts' business above probate, county and circuit will be done by assistants, because it has only four judges from seven or eight counties?

Mr. MILLER (Cook). Yes.

Mr. JARMAN (Schuyler). They would not be in any one county much of the time, and that would leave the probate, county and petty criminal matters to assistants?

Mr. MILLER (Cook). That is the idea that is embodied in this measure.

Mr. CARLSTROM (Mercer). Is not the system where we would have the same number of administrative and judicial officers, the only difference being instead of being elected they would be appointed; we would have the same number of court officials as we have now?

Mr. MILLER (Cook). Isn't this true, in each county where there are a good many justices of the peace, and I assume there is more business in every county perhaps than one man could take care of in the way of justice of the peace business traveling around, so that the total number of officials need not be any greater than the amount of work that was actually required to be done.

Mr. CARLSTROM (Mercer). As to the justices of the peace I agree with you, but I mean with reference to the major necessities of a county down the State, the master in chancery having the power of the probate judge would be fulfilling that office and would necessarily be paid, the difference being only in the manner of his election. We would have the same number of courts; it reselves itself down to whether we want to elect or have the judge appointed.

Mr. MILLER (Cook). Let me ask you this question: You have in this county down there a master in chancery as well?

Mr. CARLSTROM (Mercer). Yes.

Mr. MILLER (Cook). And a probate judge and county judge; in many places I assume the one man could do the work of the county and the probate judge, and in many places he could do the work of the probate judge and the master and perhaps in many places the work of the probate judge, which is principally administrative work and justice of the peace work.

Mr. CARLSTROM (Mercer). That is true; in most of the smaller counties down the State the county judge does perform the duties of the probate judge and the master in chancery is a sort of adjunct to our courts that some of us question the necessity of, and I think the county judge could take the evidence that the master does. The point is we have to have so many officers so as to administer the processes of justice and other questions that arise, so that we would have about the same number of officials, the difference being the manner of selection, is not that true?

Mr. MILLER (Cook). That is true in counties large enough to have the county and probate judge where you keep them both busy. Of course then you would need a man to take their places, you would save something on the master and the justice of the peace.

Mr. CARLSTROM (Mercer). That is about the only place we could save anything in our part of the State, as I see it.

Mr. McEWEN (Cook). In Cook county the superior court has its own organization, that is the judges meet and select a chief justice. They adopt a set of rules and there is assignments made to the criminal court and an

allotment as to who shall hear the habeas corpus writs and some other minor divisions of business and work; the same is done in the circuit court, one judge may be hearing common law and another chancery by assignment, and direction of the different members of the court meeting together. In that respect there is a unified action. Now, wherein will the action of this court united in one circuit court, wherein will it be any different or accomplish any more, or the judges do any more work under this proposed system than now, and why?

Mr. MILLER (Cook). Well, at least we will say, Judge McEwen, in the circuit court they have abrogated the rule that one man shall sit until his term is out as chancellor; the superior court is still doing that; there was a time in Chicago when there was much greater subdivision of the work than now; they put certain classes of jury cases on certain calenders, but that was not popular with the judges because each one wanted to try all kinds of cases; if you have one judge trying a certain class of common law cases of certain classes or certain classes of cases right along, I think you would get quicker and better results. So much for that organization. I think it works out very much better by the unified court and the individual head; there is more or less co-operation; there is more co-operation in the superior court than there used to be, and in the circuit court, but there is not that co-operation there would be if you had one head with power to direct.

Mr. GEE (Lawrence). Is the plan proposed for the whole State of Illinois, if I understand it, it is to have two courts, Supreme Court and circuit court?

Mr. MILLER (Cook). Yes.

Mr. GEE (Lawrence). Section 1 of your proposal says: "The judicial powers shall be vested in a Supreme Court and a circuit court, each of which shall have both original and Appellate jurisdiction of all judicial proceedings." Does that mean they would be equal in character, of any kind of law suits, one can have Appellate jurisdiction of the other?

Mr. MILLER (Cook). No, it means, and that is further on, the Supreme Court is given the power to say what original jurisdiction each shall have, and what Appellate jurisdiction the circuit court shall have; the way it would operate and work out inevitably I should say is this: that the circuit court has Appellate jurisdiction to the extent that certain of its judges are designated by the Supreme Court to sit as an Appellate Court; they sit as an Appellate Court, so really the Appellate division of the circuit court is the same as in the State of New York; in that respect they have Appellate jurisdiction, but the Supreme Court retains Appellate jurisdiction except wherein it gives it to this Appellate division of the circuit court.

Mr. GEE (Lawrence). Then you leave that all to the Supreme Court to fix?

Mr. MILLER (Cook). Yes. Our Supreme Court now has certain original jurisdiction. Of course, the tendency of the Supreme Court would be to restrict its original jurisdiction as much as possible, I take it, but there are certain cases, such as exist now, and certain cases where public exigency might require it, for instance, mandamus case regarding public office. There is no reason, I take it, why it should be begun in the lower courts and decided there where we know it has to go to the Supreme Court; there is no reason for starting it in the lower court.

Mr. GEE (Lawrence). Section 1 further says: "The Supreme Court shall have a general superintendence power over the circuit court. The extent to which said court shall exercise their respective jurisdictions. whether original or Appellate, and the manner and extent of the exercise by the Supreme Court of such superintending power, shall be regulated by rules to be adopted from time to time by the Supreme Court." If we are leaving to rules to be adopted hereafter by the Supreme Court, it means to expect changes. What difference would that make?

Mr. MILLER (Cook). The Supreme Court would be plainly bound in the Constitution to give a man a good chance to get into the Supreme Court. They would be violating their plain Constitutional duty if they did not give the man a fair chance to get his case in the Supreme Court; it would seem to me there is less danger of a technical rule which would exclude a man by a technicality from getting his case into the Supreme Court if all the rules were made by them, than if made by the legislature and were construed by the Supreme Court.

Mr. GEE (Lawrence). I have met with lawyers who tried to get in the Supreme Court under present conditions, by certiorari or by petition, and they did not know why they could not get in. If the rule was made by the Supreme Court, would not the tendency be to give full power to make rules from time to time, would that in your opinion work to obviate against Appellate practice in the Supreme Court, denying a man the right to a hearing?

Mr. MILLER (Cook). The legislature were apparently cognizant of that power of that bar when they passed this certiorari law; that was designedly intended to give a man the right of appeal from Appellate to Supreme Court not as a matter of right, but only as a matter of discretion with the Supreme Court. Now, of course with this system I take it that the matter would work out very much the same way in most cases, the Appellate division would be the court of last resort, and I see no reason to suppose that the Supreme Court would not be just as amenable as now to public opinion and opinion of the bar toward giving people the right to get into the Supreme Court, and I observe that the Supreme Court at the present time are willing and anxious to explain the operation of their rule as to why they do not let a man come in under certiorari and why they do. I do not see any reason to apprehend that they would invite criticism by laying any traps for a man, I would think they would rather avoid it.

Mr. GEE (Lawrence). Don't you think the right of appeal ought to be allowed or denied in to-to, not left to some emergency?

Mr. MILLER (Cook). Personally I rather favor the certiorari law, the same as in the United States Court; I think the Supreme Court would be a great deal further behind if they did not have that law, and sometimes the prompt disposition of business is necessary even if we do not always get exact justice, which we do not always get anyhow. That would be my view of it.

CHAIRMAN DEYOUNG. Any further questions, gentlemen? If not, Judge Martin, county judge of Cass county, is here, and I believe would like to be heard.

CHAIRMAN DEYOUNG. Gentlemen of the committee, Judge Martin of Cass county.

JUDGE MARTIN. Mr. Chairman: Probably I ought not to take any of your time in discussing this matter. It was not intended that I should do so when I came here this morning. I came over here to hear the discussion from these gentlemen who came down from Cook county concerning the propositions that are presented to this Convention. I wanted to know what sort of a system is being practiced in the State of Illinois. I was also interested in knowing what sort of a court system we are going to have. If we are going to have a change in the court system, we ought to be very fully advised about it before we submit it. I think the Convention and the committees of the Convention ought to be properly advised about it before it is submitted along with the other part of the Constitution. It is all very well for us to have ideals about what the court system should be, and the gentlemen who have spoken here this morning and this afternoon have given us some very excellent ideas, and probably if the good ideas of each of their systems could be brought together it would give us a very ideal court system for the whole State, and yet we must take into consideration this thing: In presenting a system to the voters, are the voters going to adopt this system?

I have heard it expressed a great many times by lawyers and others that we have a pretty fair court system, and they are pretty well satisfied with it, and if something radical is substituted for that, it is very doubtful whether the people of the State will adopt the new Constitution.

In the first instance, what do you want with a change? Is there something wrong with our courts? If there isn't anything wrong with them, let them alone. What are we going to bother with them for? Let us just adopt judicial article No. 6, and let it go at that, but if there is something wrong with the system that we can better and make it more expedient for the trial of causes for litigants, then let us find out what that is.

Now, it is said, and I think it is the very last article of the Bill of Rights, that "a frequent recurrence to the fundamental principles of civil government is absolutely necessary to preserve the blessings of liberty."

The preceding section is the basis of our court system, and the justification for a court system, and that is this: "Every person ought to find a certain remedy in the laws for all injuries and wrongs which he may receive in his person, property or reputation; he ought to obtain by law, right and justice freely, and without being obliged to purchase it, completely and without denial, promptly, and without delay."

Now, for 102 years in this State we have been getting along pretty well. The courts did not always suit the people of the State. Under the first Constitution, that of 1818, the judges were appointed by the legislature, the Supreme Court judges and the circuit court judges, and all during the time of the operation of that Constitution we had an increase of a number of members of the Supreme Court, and we had various circuit courts and other courts; and then we had the Constitution of 1848, and we had a great deal better statute. We unified the system of circuit courts a little more, and not until the Constitution of 1870, under which we are operating now, did we have anything like a unified court system that was satisfaction and not a single member of the court is appointed under that system except where there is a vacancy of a term that is less than one year.

It is suggested in the system explained here by Mr. Miller—and I listened very attentively and I think there are some admirable propositions there—it is suggested that we have the appointive system applied for the selection of judges for Cook county, and it will not apply to the other part of the State. There is only one reason that I can see for having an appointive system, and that is in Cook county they would have more efficient judges. Is there any other reason? I fail to see any other reason except that the judges would be more efficient. Now, I will agree with them that we may have very efficient judges, and perhaps more efficient judges by an appointive system where the appointing power can sift out the qualifications and appoint the judge upon those qualifications, but if that court system is presented with the appointive judges, even for Cook county, I want to say to you that I seriously doubt whether Cook county would vote to adopt that sort of a Constitution. It might be that the lawyers there and the judges there and men of good sound judgment would favor that sort of system, and rightly so, but they are not the voters. If you are going to lose nothing by having an elective system except possibly there might be a few out of all the judges that might not be quite as efficient as those that were appointed, is it well to endanger your entire new system which we feel ought to be presented and adopted for our court procedure?

There ought to be a unified court. I perhaps ought not to discuss this matter at all, for the reason the proposition I have presented here through the courtesy of the member of the Convention from my county has not been presented to you. You don't know what it is. It was not the proper time to read that to you, and I am here just as a visitor. I was not expecting to speak upon the proposition at all; in fact, either before this Committee of the Whole or the single committee. I did not know that they would even care to hear me. I presumed they would take that as they had taken the

multiplicity of propositions and consider it in committte along with everything else, and that committee work out something.

The system I presented here is in a sense an entire court system. I will not read the sections, but I will give you the substance of the sections, and if you had had it read, I would not take the time to do that, but in order that you may understand better what I am trying to discuss in this matter, I will give you the substance of it. In the first place I will read the first section: "The judicial powers shall be vested in one Supreme Court, Appellate Courts, superior courts, and justices of the peace and police magistrates." Let me speak of that latter provision in this way. Later on in here I make a provision that the justices of the peace and police magistrates may be abolished by the legislature and substitute a municipal court. In each of the incorporated villages and cities of the States they may abolish these, so that it leaves the justices of the peace, if the people want them, and the legislature wants to keep them. I am not caring so much about that. I take it that the legislature will work out a very good system for us. I don't see how, take the State over, we can get along without those inferior courts in some way for the small matters that must necessarily arise in municipalities and communities and that will be taken care of.

Now, the Supreme Court shall consist of nine judges and shall have original jurisdiction in cases relating to the revenue, in mandamus and habeas corpus, and such appellate jurisdiction in all other cases as may be provided by law. One of the judges shall be Chief Justice, and then giving the qualifications of the judges; that no person shall be eligible to the office of the judge of the Supreme Court unless — years of age, and shall be a licensed attorney, and have had at least ten years' practice within the United States of America, and be a citizen of the United States, nor unless he shall have resided in this State five years, and a resident of the district in which he shall be elected. Then providing that the sessions of the Supreme Court shall be held at the seat of government and for such terms as shall be provided by law, and until they are changed by law. Then follows a list of the districts with the counties. There is no change in this provision, except taking out the counties that touch Cook county or that are now in the seventh district and putting them in adjoining districts, and leaving Cook county the seventh district as one district; Cook county will be one district.

Then a further provision that the boundaries of all the districts except the seventh district may be changed, practically the same as they may be changed now under our present Constitution, but leaving the county of Cook as the seventh district at all times, and providing for the election of three judges in the county of Cook, and providing that until the expiration of the term of the judge who is now holding the office there living in that district, the Governor shall appoint two additional judges, and on the expiration of that term then the three shall be elected. I have included the election of judges in Cook county and it may seem a little presumptuous for someone down the State to undertake to tell the Cook county people what they want. I do not propose to do that, but in formulating a complete system I thought it would be better to put in what I believed would be a full and complete system in order that we might see in discussing this matter just what relation one section bore to the other.

Then there is a provision that is not found in our present law.

"The Supreme Court shall have power to appoint a clerk, deputy clerks, a marshal, deputy marshals and such other officers and assistants of said court as it may deem necessary or expedient for the transaction of the business of the court, and may define the powers and duties of such officers and assistants. The court shall fix the compensation of all such officers and assistants so appointed, which compensation shall be paid out of the State treasury in quarterly instalments."

That seems to me to take care of all objection to the election of the court officers which are attached to the Supreme Court.

And then providing for the appointment of a reporter of the Supreme Court under their jurisdiction and at their pleasure. And then providing for the salary, leaving the amount of salary blank. That is all that is provided here, simply a skeleton system for the Supreme Court. They will have all the powers that they have at the present time, and they will have the same Appellate jurisdiction that they have now, and such jurisdiction as the legislature may provide for them. I am rather inclined to think that the Appellate jurisdiction provided for the courts should be left to the legislature. I don't see how there can anything arise that would make it absolutely necessary that the Supreme Court itself should define its own jurisdiction for the present or for the future to the exclusion to the legislature. I think the legislative body is the body that should make our laws, including our laws for the courts. I think that that is the intention of our original Constitution when it said we should have the three distinctive departments of government, the executive, legislative and the judicial, and they should be kept as distinct as possible.

It is true, as was said by Mr. Gilbert this morning, that there is a good deal of talking about them being absolutely independent of each other. They cannot be independent of each other absolutely because they are co-ordinate branches of the State government, and the executive branch cannot be absolutely independent of the other, but I don't see why there should be an appointing power lodged in either one or the other of these branches to appoint the officers of the third branch. I think it would be very difficult to take from the people with very much satisfaction to them their right of franchise upon this or any proposition that we have once given them.

Now, as to the Appellate Courts: "Appellate Courts shall consist of four districts numbered one to four inclusive; the first district shall be the County of Cook, districts number two, three, and four shall be composed of the counties which compose the Appellate Court districts at the time of the adoption of the Constitution, and continue such until said districts are changed according to law.

Then it propvided for the change of boundaries, and so forth, practically the same as our present Constitution; and then, on the first Monday of June, A. D. 1921 and every six years thereafter there shall be elected in manner provided by law, three judges in each of the four Appellate Court districts to be judges of the respective Appellate Courts, who shall hold their office for a term of six years, and until their successors are duly elected and qualifield.

The Appellate Court shall exercise appellate jurisdiction only, and have jurisdiction of all matters of appeal, or writs of error, as shall be provided by law; the General Assembly shall have power to provide that decisions of the Appellate Court may be final except in criminal cases other than misdemeanors, and in cases involving a franchise or freehold, or the validity of a statute.

If you will recall, this is practically what we have now, by law, but this makes a definite juridiction if adopted into the Constitution. Every lawyer, every litigant, every business man who has dealings with the court will know just where he is when he starts to get into court. He will know where he is when he has taken an appeal. He will go to the Appellate Court except in those cases which are excepted by law now.

Then for additional judges: "If at any time the judges of any Appellate Court district shall certify to the Supreme Court that the volume of the business of the court in such district is such that a branch court or courts are necessary to promptly dispose of the business of the court, the Supreme Court shall establish such branch court or courts and appoint three judges thereof who shall have the same qualifications as the regularly elected judges of the Appellate Court to hold said court or courts. Such branch courts shall have the same jurisdiction, powers and duties, and the rules of practice shall be the same as the principal Appellate Courts."

And then the next action provides for the salary. Now, the third division of the general heading is this, superior courts: "Superior courts shall

consist of a court of record in and for each of the counties of this State and shall have original jurisdiction," as may be provided by law.

We have not abolished any courts there. We have simply abolished the judge who presided, and we have put the courts together. It is the same court. It is the county court and the circuit court combined. Where there are probate courts in the State, they now have probate jurisdiction mentioned in the article concerning county courts. We are simply turning them over to the one Superior Court judge to handle in each county.

"In all counties having a population of thirty thousand or under, there shall be elected on judge of the superior court, and in all counties having over thirty thousand and a major fraction thereof, there shall be elected an additional judge for each thirty thousand of population or major fraction thereof."

Now, as I said, we have got along pretty well with this provision, this fundamental provision of our bill of rights, except possibly the last clause or sentence of it, they shall justice and a trial without purchase, promptly and without delay.

Well, we have got along pretty well, I doubt very seriously whether we have come up to the full measure of those last words. We don't give litigants justice and right under the laws, promptly and without delay. Who is to blame for it, or what is to blame for it? It cannot be the judges or the other officers of the court. What is it then? Why it is the system of the courts. This Constitution provides that there shall be at least two terms of the circuit court in each county a year, and the legislature may provide more. They have not provided for very many. Now, let us see what the result is. It was illustrated by Mr. Miller about a will. I can give you an illustration that occurred in my own court. A will was brought in for probate. The ordinary testimony was taken and heard and an examination of witnesses, and the will was admitted to probate. It was appealed to the circuit court. That circuit court did not meet for five months after that. It went there and they tried that proposition and it was admitted to probate there. Then there was an appeal taken to the Supreme Court. It came back and then it was sustained all the way through and finally got back into the county court, and then there was a contest there and that went to the circuit court—and after it was determined there it went again to the Supreme Court. It was nearly four years before that case was settled. That is only one instance. If a man wishes to sue a debtor, why the court probably just adjourned the day before and he has to wait for six months before he can get a hearing upon his suit, and if anything happens there is a continuance for six months more. It goes on and on and the litigants do not get justice under the law promptly and without delay. There are many such instances.

Whatever you do, gentlemen of the Convention concerning the courts, you ought to relieve the down State courts certainly of that condition. They ought to have some more ready and speedy method of having their causes determined. That ought to be done anyway. This proposition in this proposal here makes a continuous court, but you begin on the first Monday, just as our probate courts begin now. We have a provision that the probate court begins the first Monday of every month, and there is no reason that I can see why the county court or the superior court, taking over jurisdiction should not begin at a specific time. The first Monday is as good as any other time. You have your time your processes just the same, and this system of course in that particular would not change the practice act. We go right on with our practice as we have it now, and leaving the Supreme Court to formulate necessary rules of procedure. We will have our practice act as we have it now and such amendments as may be made from time to time to apply to the court machinery. It just simply takes over this other court. There is a provision also now for the courts interchanging with each other and holding branch courts when called upon, and a provision for the salaries and providing the salaries shall not be increased or diminished, but provides that in case they are called into any

other court to hold court additional compensation may be paid to them as provided by law for their expenses.

Now, why should there be any difference between the courts of the counties outside of Cook county and Cook county? What is the real difference? In Cook county the bill of rights would be precisely the same and the criminal law would be precisely the same, the rule of evidence would be precisely the same, and I don't see any reason why there should be any difference in the machinery to apply those rules. The difference consists solely in the fact that in Cook county they have a very dense population and perhaps different classes of business have grown up there in that vast city that makes such a great volume of litigation that they ought to have more machinery. There is not any difference however that I can see in trying the cases. You have an efficient judge and you have the same system of trying the case, the same law to apply exactly over the line from Lake county into Cook county as you have in Cook county. I cannot see any difference except there should be more courts. If your neighbor has a thousand acres of wheat and you have forty acres, you can cut it with the same machine. He just gets a few more machines, that is all.

There is a provision for helping out the situation in Cook county. They want a corordinated and uniform system.

In all counties having three or more judges of the superior court, such judges shall constitute a judicial council, which council shall have power to provide for the division of the general courts into chancery division, a common law division, a criminal division, probate division, and a juvenile and domestic relation division, and such other divisions as the council may deem necessary for a more speedy trial of causes and prompt dispatch of the business of the court, and may assign one or more of its number to hold such divisional court or courts."

It turns over to Cook county absolute right to make all these divisional courts. Why incumber your Constitution with a great detail of provisions about that if you turn that power over to that judicial council? Give them the power to do that and let them do it.

They have in Cook county 73 judges, thirty-one in the municipal court and forty of the circuit and superior courts, and then the county court and the probate court, making seventy-three. Under the new Constitution as it is expected, they would have somewhere near 83 judges, which would amply take care of their business. It seems to me, gentlemen, with a consideration of this, at least, we could get a court system throughout the State that would be simple. I believe it would appeal to the voters of this State. While there may be apparent objections to it, it seems to me it is a simplified system, not very long, something that could go into the Constitution, leaving the legislature to perform its functions, and leaving the judges to perform theirs, and not having—if you wil pardon me, not having any boss court. I think the courts should be absolutely independent. When a court takes appellate jurisdiction it should come up from a court that has acted below independently of that court. Upon the best judgment of a judge of that court, and when it goes from the Appellate Court to the Supreme Court the Supreme Court would not act with the same freedom and the Appellate Court would not feel that the Supreme Court were exercising an authority over them.

I cannot agree with everything that was said about the comparison between our court system and great factories. The judges of the court have nothing to do with the court system except to apply the law as it is given—the statute law or the common law or the equity, whatever it is. That is the duty of the judge of the court, and not to engage in any outside business; and it could be done if the judges are entirely independent and free. This will give us a court for each county, and we would dispense with the county judge and the probate judges. I said we did not abolish any courts, but it would abolish the city courts, but I believe they are not in the very highest favor now, anyway, and if we had a continuous court in the county, we would not ask to have a city court.

I have talked longer than I really ought to, and I feel that I should apologize for doing so, but having been cast into this, I didn't feel it would be right to throw a brick into the machinery and then run away from it. I thank you. (Applause.)

Mr. CUTTING (Cook). I am particularly interested in this question of a unified court, and I am delighted to hear the plan of the distinguished gentleman who just left the desk.

CHAIRMAN DEYOUNG. Judge Cutting, if you will please come forward. Judge Cutting, gentlemen.

Mr. CUTTING (Cook). Mr. Chairman, and gentlemen of the Convention: As I was saying, I am very much interested indeed in this question of a unified court. It is not an experiment. It has been tried and not found wanting in a number of jurisdictions.

Speaking now for a moment on the question of Cook county, with which I am most familiar, of course, the unification of the courts there, in my opinion, would work a wonderful economy, both in the matter of time and expense. The present organization of the courts there is a very loose one. It is true there is a chief justice of the circuit court and there is a chief justice of the superior court, and the people who are not chief justices, the other judges, do just as they please in the matter of obeying the orders, either of the counsel or of the chief justice. The chief justice has advisory power, but nothing that he can enforce in any possible way. The result is that with the great number of judges there are absentees, there are shirkings of duty. There are men who work hard and honestly all the time, and there are others who do quite the contrary, and in the great number of courts, the tally on these people is lost.

It needs a unified system, in the first place, to insure efficiency in administration. Let's see how that would work. Take the superior court of Cook county, the circuit court of Cook county, the probate court and the county court, and put them together. You would then have a court of 42 judges. I am leaving the municipal court out now purposely for a moment. You would have 42 judges, and if some policy such as has been suggested by Mr. Miller or Judge Martin, if some such system were started, there would be a chief justice. I think he should be appointed from outside the county, from among the county judges, and I know of no better place to put that than the Supreme Court, as Mr. Miller has put it in his proposal, but he should have authority. He should have authority to say to this one, "You will hold the probate court," and "You will hold the criminal court," and "You will hold chancery court," and "You will hold common law court," and "You will perform the duties that are now performed by the county judges," in the multitudinous duties which are dumped on that court by every legislature. Then there could be an assistant to that person, or assistants, as their undoubtedly would be, and you could shift the force from place to place as the necessities of the case required.

Take the probate business, with which I am particularly familiar. It has long been true that there is no one man who can do all the work of that court. No circuit judge, no superior judge can help him. They have not the jurisdiction. He can call on the county judge, but the county judge calls on half a dozen outside county judges to help him, and he can do nothing unless, as he occasionally does, he lends to the probate judge a county judge to help him out. The probate judge, unless he has an appropriation from the county board with which to pay outside judges, can get no help except through the county judge, who, for some reason or other—I don't know just why—always has a stock of extra judges on hand.

A matter is tried in the probate court, an appeal is taken to the circuit court, and it is sent back to the probate court, which is all unnecessary. It could be tried in the first place by a judge of competent jurisdiction. You have done away with all that appealing up and down, as has been stated by the judge and by Mr. Miller's illustration, with which I happen to be familiar. You would cut all that out.

On the matter of the allowance of claims in probate, from which there are ten to fifteen thousand contested claims every year in the probate court

of Cook county, all of those claims could be tried, and instead of an appeal going to the circuit court, it would go directly to the Appellate Court, saving all that. You could send judges to help the probate judge—or, first, there would be no probate judge. Then you would assign two or three men to do that work. You would do all those things in a way that would conserve the force, and bring about that thing which we are all looking for in these days, namely, efficiency.

Now, on this question of the one judge to one county system. Being from Cook county, I am not specially interested in that except in a general way, as I, as a citizen of Illinois, am interested in everything which I think would be for its benefit.

I have noticed since I have been here the line of differentiation between the counties which are dominant in a circuit and the counties which may be said to be subservient in a circuit. The latter class are in favor of the one judge system, because they don't have the benefit of a judge, whereas the large counties having a resident judge have him there for use most of the time and they have a constant term of court.

This one judge system to the county, in its most perfect form, perhaps, is to be found in California. Every county in the state of California has one judge. That judge has complete jurisdiction of all justiciable affairs. Everything that can be brought in the circuit courts which we have can be brought before that judge. He does the probate work. It is no new thing for circuit courts to do probate work. It has been done in Indiana and Iowa for many years and in California. With one judge to each county and with that court always open for the transaction of business there is much less delay in their *nisi prius* work than in the States organized along the judicial lines which are used. If the time of that judge is too much in demand, and if the population grows to a point where he cannot attend to all his duties, there are two things that may be done to help him. In the first place he may be allowed to combine in the nature of a master and surrogate, or he may have another judge, if the population is enough, and all that must be provided for, of course, in any constitutional arrangement of that kind, but you have eliminated all questions of jurisdiction. You have put behind you all possibility of making a mistake as to the court to which you do. You have got it all there, and the court which starts in, if you please—and I use this illustration, being more familiar with it than any other—with an estate probating in that court, there happens to be a testamentary trust in equity. You don't have to go to the circuit court to have a trustee appointed. The court has complete jurisdiction, and takes the matter up and disposes of it right there. You don't have to go into the circuit court to sell real estate to pay legacies as you do in this State. You can sell real estate to pay debts, but you can't sell real estate in probate to pay legacies. You cannot divide the land there between the heirs at law or the devisees in this State in the court in which the estate is pending. You have to go into the circuit court in order to do that. In Minnesota and some other states the partition between the heirs or the devisees is done right there in the probate court, the court of original jurisdiction. All these things are accomplished in one stroke by establishing one court in each county with complete jurisdiction.

Now, far be it from me to suggest to the people of the State of Illinois outside of Cook county the mehtod which they want in order to transact their business to their satisfaction, but it does seem to me we should have a unified system applicable to the conditions which surround the different counties. I am not unmindful of the fact that they differ greatly in population, and I can readily see how you could join two small counties together for judicial purposes, perhaps with one judge, or have one large county with two or three judges. All that is worth considering, but if you prefer to have the present system, or some modification of it, rather than the one I suggest, why, there would not be a word said, I am sure, by the delegation from Cook county. I have yet to find, with perhaps one exception, anybody who is familiar with and competent to judge the judicial system in Cook county,

who has any real objection to the unified system there. With the great number of judges and the tremendous volume of business you can I think see, as most of us have seen, that there must be some method of bringing to bear upon that situation a really efficient system, which shall have, not 42 heads, but shall have one head, under certain restrictions. There shall be no arbitrary disposition of things, in the sense that might be called tyrannical, but there must be somebody who is responsible for results, and who can use the force that is given to him to use in such a way that results will follow.

The great thing that is being talked about among the people everywhere is the delay of judicial procedure, resulting almost entirely in a denial of justice in many instances. We must, so far as we are able, gentlemen, it seems to me, do away with the possibility of that criticism, and bring to bear a system which will work rapidly and well, if such a system can be devised.

I admit that neither of these systems, perhaps, is perfect. It would be a very strange product of poor humanity if it were, but each one of them that has been indicated from this platform is along the right direction, going to the right place, and bringing into use in modern times that modern tool, efficiency, which is the thing which counts and brings results among men.

Gentlemen, I thank you. (Applause.)

Mr. MICHAL (Cook). Mr. Chairman, and gentlemen of the committee: I have found that the system of judicature obtaining in our State, and particularly in the County of Cook, is eminently satisfactory to me, and, I take it, to the vast majority of the brethren of the bar in Cook county.

I don't want to become an isonoclast until I am forced to take that position. I am satisfied to let well enough alone. I have, in some degree, achieved a little bit of success as I judge success at the bar—I have been able to make a substantial living, and the conditions under which I have operated my business and which I had to follow in order to make a living, I find not to be wholly burdensome.

I think that the proposal of the judge from Cass county is an admirable one. I think that we ought to stand by our system of courts where they have, with such efficiency, weathered the storm of time. Here and there we find a few objections. We ran across an objection here not long ago that I think is a vital one. That is a matter of legislation; that is a matter at least that the legislature has within its power to alleviate. I want to call attention to this situation: In the trial of a personal injury case, an adverse verdict is rendered against the plaintiff, a motion for a new trial is denied, an appeal is prayed and allowed, and the Appellate Court affirms the judgment. The Appellate Court and the trial court and the jury may have been wrong. I don't know why the litigants should be prevented from having the Supreme Court have its last word upon that proposition, yet under our system and under our court act, I can't go up there, because I haven't got any judgment. I am precluded. Now, that is an ill that ought to be remedied. That doesn't very frequently happen, but, being there it should be remedied.

I concede the propriety of the probate court being vested with chancery jurisdiction, particularly in the consideration of contests or partition matters that may arise. There is no necessity of chasing a man from one court to another and then coming back again. That ought to be settled by a court having jurisdiction for that purpose.

I want to say that in the course of my twelve or fourteen years' experience at the bar in Chicago—and my experience has been that of a general practitioner, running from one court to the other—I have found on the whole, with one or two exceptions, that the judiciary of Cook county is comprised of very good men. They are patient; they are industrious, and they accord the lawyers fair play, and when I run up against a tyrant or a despot, I exercise my prerogative as an American citizen, and I raise Cain with him, and I think I do so in perfect justice, and I am not treading upon judicial courtesy nor am I offending anybody when I do that. I am willing to take issue with anyone and have my little discourse with him. If I don't get

along, I will just lay for him until he is a candidate, and then I will try to do what I can to take him off his throne and place him with the garden variety of practitioners.

The security of a judicial system rests in the hands of the voters, and I am willing to stake my chances on a judge who is selected by a political leader and put up as a choice or nominee of a party to be voted for by the people. In the course of my little political experience—and I have had something to do in the matter of the selection of judges, at least the proposal of their names—and I have found it uniformly to be the custom of political leaders to exercise the very greatest scrutiny and intelligence in choosing men to be elected judges. I have also found that the direct primary as obtains for the selection of candidates for the municipal court in our city is a bane, and should not be tolerated. I think that this is a thing that has helped to cast aspersions and reflections upon that court. Why? You have got to be practical, and in making up your ticket you don't look to the ability of the man, but you look to his ability for gathering the votes, a popular man, but in going into your nomination convention you strive to compete with the opposing nomination convention in picking the biggest and best man in your party to go to the polls and take a chance at the election, and the judgment and selection of the political leaders is uniformly good.

I feel called upon at this time to state to the gentlemen of Cook county that I have found that our circuit and superior courts are operating entirely too fast for the general practice of the bar; they are too far ahead of the time. You get a trial in cases too speedily. They are way ahead. This might be a revelation to some of you, but it is a fact. Times without number you will find lawyers appearing for plaintiffs, particularly in personal injury litigation, asking the courts for continuance, and their sole and only object is to give a chance and to give time so that the injury will develop, so that it can then be determined whether it is of a permanent or merely of a temporary character.

Now, that is the condition that confronts us in Cook County. I will leave it to the members of the bar there, and I will leave it to the judges there. They will tell you that is the condition. We are going along at breakneck speed. Many a verdict has been unsatisfactory because of this speed, because sufficient evidence as to the extent and character of the injury could not be presented successfully.

I think on the whole the laws under which we are operating are good. We might have a special court, a criminal court, and elect judges for that purpose, rather than to designate them as circuit court or superior court. I find that the majority of judges that are assigned to do work with the criminal court branch are loathe to do that kind of work. They hesitate about it, saying that they are not temperamentally fitted for that kind of work, that it is odious to them. Well, that can be remedied. Why push a job onto a man that he is not temperamentally fitted for, that he doesn't take an interest in? The thing to do is to elect judges for that particular court.

Now, the proposition resolves itself: Shall economy operate to disturb the structure of our courts? I say no. I don't think it was the sense of our forefathers that the proposition of economy should enter into the proposition of meting our justice. For one, I will say I do not care if the courts are operated at fifty times the cost for which private courts could be conducted and operated. The only thing that we are concerned with is, do those courts mete out substantial justice, and if they do that, cost has nothing to do with it. This proposition of economy, I take it, is a false premise. I don't think that you will find that the people of the State of Illinois will take into consideration the proposition of unification, taking away from them the right to vote for judges who are to administer the law, who are to uphold the law in their communities, at the saving of the expense of elections. They won't care for that. You have got to give the people

what they want, and the source of power is derived from the people. Let us not concentrate the power into the hands of the few. We have got along sufficiently well. Most of us, I take it, have made money as lawyers, and that is a pretty fair criterion of showing how the system works. You will find very few complaints in general among the practioners as to our system of courts. Here and there you may hear a kick as to procedure, here and there you may hear a man talking about the policy of limiting the causes of action with respect to the amount to be collected in case of death arising out of personal injury. You have a legislature for that. I am for legislative action on courts. I believe that the courts are responsible to the people, and that the only way you can keep your lever on the courts and keep them from becoming tyrannical and oppressive is to keep them subservient and responsive to the will of the people, and if you don't do that you are going to have a revolution of things, and you will destroy the structure upon which our forefathers built this great government. (Applause.)

Mr. DOVE (Shelby). Mr. Chairman, I am rather inexperienced in the system of government, or in the system of electing judges in Cook county. I have heard it intimated several times it is done by political leaders. I would like to have someone from Cook county explain to us the system in vogue for selecting candidates in Cook county.

Mr. MICHAL (Cook). I will explain it in a general way. Assume in my ward a barber aspires to be a candidate for judge, say, of the municipal court. I can't stop him from running. I might throw up my hands and cry to heaven to prevent the calamity, but if I don't propose his name to the convention or to the meeting of the judiciary committee who has charge of proposing the names, he will go out and file a petition under the direct primary act, and he is liable to break our slate. We can't avoid that kind of a calamity. Again we have a reputable man, an intelligent man, a man eminently fit by education, training and temperament, and otherwise. I take pride in presenting his name to the committee. The committee is composed of all the wards in Chicago, thirty-five, and a few country towns. I send in his name. I may not be successful in having his name adopted and having him placed on the nomination ticket. They may not cooperate, but that is the way that is done.

Mr. DOVE (Cook). The committee is constituted by election from the ward committeemen?

Mr. MICHAL (Cook). Yes, sir. It is done by law, nominating committees for judges of *nisi prius* courts.

Mr. DOVE (Cook). Who chooses that judiciary committee?

Mr. MICHAL (Cook). The entire convention, composed of committeemen. They vote on it, and they are elected, of course by the people, the committeemen.

CHAIRMAN DEYOUNG. Do you make a distinction, Mr. Michal, between candidates for the municipal court and the circuit court?

Mr. MICHAL (Cook). In the municipal court they file a petition. They come under the direct primary act. There is no restriction on them. We have no safety valve on them. They break slates if they want to.

CHAIRMAN DEYOUNG (Cook). Hasn't it been so recently; a man aspiring to the circuit or superior court bench; is it not your understanding that one of the most certain ways is to become ward committeeman first?

Mr. MICHAL (Cook). I only know of one instance. I think Chicago and Cook county is to be congratulated upon that selection. That is as to Judge David F. Matchett. He was the chairman of the Cook county——

CHAIRMAN DEYOUNG. I am not speaking in reference to that; I am speaking as to the method.

Mr. MICHAL (Cook). That is the only one that occurs to me now.

CHAIRMAN DEYOUNG. Well, there are others.

Mr. DUPUY (Cook). Gentlemen of the committee: I don't wish to enter into any extended discussion of the question that is up before us. I would like to give you my conclusions. The time is too far gone and the amount of time already taken up in this discussion is too great to allow my undertaking to go over the ground that has already been covered.

I have practiced law in Chicago for some thirty-four years or more. I had the honor of serving six years on the superior court bench. I think I know something about conditions there. I should especially like to answer any questions that may be put to me concerning matters pertaining to Cook county.

I want to say, in a general sort of way, that I agree with what has been said here by the speakers who have discussed this question. It is highly important, in my judgment, that we should have a unified system of courts in Cook county. I believe that men who have studied this question, who have given it competent thought, and who are able to pass on this question, are substantially united that we should have some relief in that direction.

It has been said that the superior and circuit courts have their councils and assign the work. That is true, but in a very limited sort of way. I had the honor to serve with Judge McEwen on the superior court bench, and I mention a little incident that shows you how utterly powerless or worthless the office of the chief justice of the court is.

It came one time to the question of selecting a chief justice for the ensuing year at a meeting of the judges. The matter seemed to lie between myself and one of the other gentlemen on the bench, because our terms expired at the end of the year, and it was a tradition, if not a requirement, that the man having the shortest term should be made chief justice. One of the judges said, "Flip a coin and see which one of them shall have it." I said, "No, that would not be a dignified thing to do. I don't care to accept it as the result of flipping a coin." "Well," he said, "then we will put two names in a hat, and draw them out and we will see who shall be chief justice." That was done, and it fell to my colleague to become chief justice.

Now, it amounted to nothing. To be chief justice of the court amounted to absolutely nothing. He had no power over the other members of the bench. He could not tell them to do this or that or the other particular class of work and have any respect shown to his wish in the matter. Some judge wanted to try chancery cases, some criminal law, some common law cases. The criminal work was a place where the work was considered to be a little easy. The fellow who was a little bit indolent and had some knowledge of the criminal law, liked to go to that court. The chancery work was very difficult. It required a great deal more application to business, and it fell to the men who were willing to work and work hard, and who wanted to feel that they were doing something worth while. True, there was a kind of an assignment made up, whereby the common law was given to this man or that man and the other man, and he usually accepted that assignment, but there was no supervision over his work. There was no authority to keep things moving to the best possible advantage, and I think, as has already been pointed out, everyone must understand that where there were a lot of men going along in a haphazard way, doing very much as they pleased, the best results were not achieved.

Now, in regard to one or two other features of this proposal innovation. I think, as the last speaker indicated, that the people are rather jealous of having an appointive judiciary. I don't believe it would meet with favor. I don't think that the people in this State, especially, accustomed to election of their judges through a long series of years, and familiar with our traditions, would like to see an appointed judiciary. I would like to see it myself under other conditions. I am not at all convinced that it is a good thing down State. I believe, on the contrary, that it is not. I think you are, in the down State counties, entirely able in a proper and efficient way to select your judges, and have them elected by the people. But look at the conditions in Cook county. We have a population of nearly three million, and it has been told you today, and truthfully, that probably not one voter in ten thousand knows ten per cent of the men put up for judicial office on one of our extended tickets, containing twenty or thirty names in many cases. What is the result? It is a haphazard proceeding. It does not involve knowledge or judgment or discrimination on the part of the voter, because he hasn't knowledge, and having no knowledge, he cannot exercise judgment. I don't know what is the way out of it, but I know

that difficulty exists, and it exists in a very intensified form in the County of Cook.

Now, my own thought is, if we could adopt some reasonable and sensible form of appointment to judicial office, it would be a good thing. I think we would probably on the whole get better men than we have had—and here I want to digress a monment to say that I don't agree with Judge Gilbert, and not entirely with Mr. Miller, in regard to the character of the judiciary of Cook county. On the whole, they have been pretty good men. They have worked under a bad system, but no lawyer that I know of believes that there has been any corruption, any bribery, and dishonesty among the judges of Cook county. I never heard such a thing talked, and I don't believe that idea exists. I don't believe it is true if anybody does have such a notion. Whatever has been said of criticism has been on account of political motives and influences and things of that sort—nothing very serious.

Now, this plan proposes passing upon each judge at the end of six years after his appointment and at stated intervals thereafter. Mr. Trautmann made the inquiry why, if the people cannot wisely select the judges in the first instance, should they pass upon the qualifications of the judges at all. It is only a matter of expediency. It is only a matter of saying that that should be done, and it has two or three things in its favor. First, after anybody has served on the bench six years the people are better able to determine whether he is a fit man to be on the bench than in the first instance. In the second place, the voter has no incentive to throw a good man off the bench by reason of putting somebody else in his place, as is the case in the ordinary election. We vote against a man because we would rather have the man who is running against him.

If this plan is going to furnish us with uniformily good judges, men of higher grade and higher type, then putting a man out of office by what we call the recall, or a failure to get approval after six years, is not going to put anyone else in his place. The voter does not help to select the man who is going to succeed the man whose office is going to be vacated, because the appointment comes in the usual way, and it is a thing the voter has nothing to do with, so that removes some of the objection.

The second thought I have on that proposition is this: That if this system is really going to provide better men for the place when the office is vacated, nobody has suffered except the man who happens to be the victim of the vote that fails of approval. His office is vacated; he is obliged to go out and enter general practice, or engage in some other line of work, but the people haven't suffered any. Assuming that we are going to get the same class of men, or substantially the same, because the office is filled by appointment, then we are no worse off under that system than we are under the present system.

When I was elected to the office of judge of the superior court I had never served in a public office. I had 68,000 votes more than I needed to elect me in Cook county, through no popularity of my own, because I had a limited acquaintance. I happened to be on the presidential ticket the time Mr. Roosevelt ran the first time, and everything went Republican. At the end of my term, after six years, the bar primary held a vote to express their approval. I had honorable position as the result of their ballot, but I was turned out of office by 20,000 votes. Now, it was a fact that the approval of the bar didn't amount to anything. It was not worth mentioning in the different localities in Cook county, where the greatest number of votes were cast. I remember talking with a friend of mine who was prominent in social work in one of the wards of the city. He says, "Don't mention your bar primary endorsement at all." In fact, he thought it would be against me if the lawyers of the city approved of my position upon the bench, because many of these voters were jealous of the lawyers and of their influence and of their approval.

Now, those are some of the conditions we are up against in Cook county. I don't know whether I favor this appointive system or not. I don't favor

it on its pure merits, and as an institution or a form of government by itself, because I don't think it is in accordance with the wishes of the people or the tendency of the times, but owing to the existing conditions, the conditions under which we work, the conditions in which we find ourselves in this country, if it should be thought by this committee, after full and careful consideration of this matter, that in order to secure the results that have been outlined to your committee, this system should be adopted, I am in favor of it, and shall so vote when the committe's report is made.

I don't know that there is anything that I wish to add. I am very much in favor of a unified system of courts. I am very much in favor of increasing the efficiency of the work by something of that character.

Now, if there are any gentlemen here who want to ask me questions about what I know, in regard to the work of the courts in Cook county I shall be more than pleased to answer them.

Mr. McEWEN (Cook). I understand you are in favor of the recall as offered by Mr. Miller?

Mr. DUPUY (Cook). No, Judge McEwen, only except as a matter of necessity. I think the people will continue to insist upon keeping some control over their courts and over the judges of the courts, but I think we can say to the people very truthfully, very candidly, and, it seems to me, somewhat convincingly, that here you have this man who has been selected by an appointive power, who is going to serve six years. At the end of that time you are going to know whether he is a fit man or not. If you don't like him, turn him out.

Mr. McEWEN (Cook). You think the percentage of about one in ten thousand is about right of the average voter's knowledge?

Mr. DUPUY (Cook). Let me say, in answer to that question, if you will take an election of twenty judges, I don't believe that more than one voter in ten thousand, out of the three million people—I don't know how many voters we have; we will have a million within a few years—I have never figured it out carefully, but it is my rough estimate, would know more than one of the candidates.

Mr. McEWEN (Cook). If that were true, and we had a million voters in the election, then there would be only one voter qualified in ten thousand, so there would be just one hundred qualified voters in a million voters, and you compel a man to run the gauntlet of a recall while there are 999,900 men who have not enough information or sense to vote on the subject; do you think that they ought to be allowed to throw a club?

Mr. DUPUY (Cook). I think this, that the opportunity for knowledge, the possibility of knowledge, the facilities for knowledge of that man not only is greater of the qualifications and of the record he has made during six years will be immeasureably greater than it was when he was elected in the first instance. That follows as a matter of necessity; it is self evident, it seems to me. If I were a voter of Cook county and were jealous of the privilege of electing judges I would say, well, this man is up for six years and if he does not make good we will get him out at the end of the six years, and I will be better prepared to know if he has filled his office well after he has served six years. I know nothing whatever about it now except what I chance to read in the newspapers or gain in some casual way; I do not think that is a good system, I am not approving it, but I say if you adopt this system at all I believe it is a necessary part of the system, because it enables the people to keep control of the judiciary which they want, and rightly, and it would have a large tendency to keep from the bench men not qualified for the place. I cannot believe that the Supreme Court or the Governor would appoint a man who was distinctly unfit for the office. If the people think they have done so, at the end of six years they have the opportunity to get rid of the encumbent. That is all that can be said in favor of it; it is not ideal, it is simply a necessity of the system.

Mr. TAFF (Fulton). Supposing this election would come immediately after some unpopular decision had been rendered by one of the judges, do

you think the people would then vote upon his record or that decision which he has just rendered?

Mr. DUPUY (Cook). A complete answer to that is found, to my way of thinking in this: The situation is just exactly that way now; at the end of six years he comes up for re-election. We have that situation now. If a judge renders a decision contrary to public opinion, he has to face that possibility. Now, the situation would not be one particle different under this system than the present system, indeed it would be some relief because as I said a moment ago the voter would not have an opportunity to say who is going into his place; a man facing re-election under the existing conditions might have against him a man of the other type, no matter what the type is, and half the motive of the voter would be to turn the one man out in order to put the other fellow in. That is not so under this proposed system. They will have nothing to do with the vacancy they create.

Mr. TAFF (Fulton). Do you believe that judge would desire to take appointment under those conditions where he would be likely to face that situation?

Mr. DUPUY (Cook). Undoubtedly it would be a very serious thing to a man who had tried to do his duty on the bench to be turned off by reason of some decision which he knew in his heart was right and was in accordance with the oath of office he had taken, simply because it ran counter to the peoples' prejudice, but doesn't he face that same thing now? He certainly does. I think if I were on the bench and retired under such conditions, and having the approval of my own conscience and of the better element of the community, I would be satisfied to go rather than to be turned out because of some change in the political situation. I think that is all I care to say.

Mr. HAMILL (Cook). I do not wish at this late hour in the afternoon further to discuss the question before the committee, but there has been one note struck by the last speaker to which I wish to refer. It is a note I have heard uttered by a good many members of the Convention on various questions that are coming before us. He states that he does not approve of the proposed recall of judges, but he thinks it necessary in order that the Constitution which we may submit may be ratified. I submit to you, Mr. Chairman, and gentlemen of the Convention, that we have been selected to sit in this Convention to submit to the people of this State what we think is right and not merely what we think the people will approve. I dissent absolutely from the suggestion that my vote shall be controlled simply by the consideration that the people are today in favor of this or in favor of that. I submit that my vote and your vote should be controlled on every question by this consideration, and this consideration alone, do we think that ought to go into the Constitution or do we not. Now, I for one disapprove with my present information of the suggestion that judges should be subject to recall by a vote every six years, and I shall vote against it unless my mind is changed, regardless of whether I think it will commend itself to the people, because I think if we go out from this Convention Hall convinced in our own hearts that it is right, that we shall be able to persuade the people it is right.

Mr. DUPUY (Cook). I would not be misunderstood nor will I permit the occasion to go by without some explanation of what I had in mind and of my attitude in regard to this matter. I will not permit the gentleman who last spoke or any other man in this Convention to exceed me in my adherence to what I believe is the right thing. I purpose only to do what I think is right, on that subject and every other subject without any regard to what the consequences may be. I want to remind the gentleman who spoke last and every other man that thinks along that line that the best things that ever came out of a Constitutional Convention have been compromises. The greatest instrument that ever came into existence, the Constitution of the United States was a compromise from beginning to end. No man can say he will have his way. We are here to do the best we can absolutely for the people of the State of Illinois, and what we do for the people of the State of Illinois will probably not be what I think is best

or what some other member thinks is best, but it will be the concensus of opinion after considering all the alternatives we have before us, and then reaching something we think is feasible and practicable to be put out before the people with some anticipation of their adopting it. Let us adopt nothing merely because we think it will please the people, but let us on the contrary not be unwilling to take cognizance of conditions as they are, and to get the best we can as the result of our labor. (Applause.)

Mr. HAMILL (Cook). I am afraid that what I said was misunderstood by the gentleman. Nothing was further from my intention than to reflect on Judge Dupuy, for whom I have had admiration and affection for many years. I was referring not only to what he said, but to many members of the Convention, that they feared this, that or the other thing, though they approved of it would be unwise because they did not think it would get by at the election. It seems to me that is an unwise policy; nothing was further from my mind than to reflect on the gentleman who just spoke.

Mr. MILLER (Cook). Some questions were asked and the remark made by one gentleman this morning, and by two this afternoon which prompted me to say this, and I wish to say it before I forget it. Some two or three members seem to have gotten the impression that I was criticising the judges of the Chicago courts. I did not so intend. Of course I intended to say that in my judgment a proper appointive system would secure on the average better men, more competent and more efficient men. Some of them are just as good as we could get by any system, but I did not mean to criticize any men who are on the bench, and I want to say this; I was going to say I had spent the most of my life in the court rooms up in Chicago, and I have never had occasion to suspect that any judge was guilty of any corruption, or anything approaching it? I wanted to make that entirely clear because I thought some two or three gentlemen here asked some questions this morning and this afternoon which seemed to indicate that they thought I might have meant something of that kind.

Mr. GREEN (Champaign). This is one of the committes in whose work I am especially interested. As has often happened, or once or twice before anyway, in these plans for civic betterment we are a little bit colloquial, or at least we folks down in the country feel like we are overlooked. Now, in the framing of this judiciary article there is more to this thing than making a system of satisfactory courts for Cook county, and there is behind it after all a certain principle of government, which seems to my mind must be constantly borne in mind in any system of organization for the judiciary, and that is, there is in this commonwealth a court that has come to be recognized and respected as the peoples' court. The circuit court is greatly revered down State, and you are going to find that any system which would interfere with this peoples' court is going to have tremendous opposition, not from the mass of the people, but the men who think, down State, and I don't know whether all the members of this committee got exactly the same impression from the remarks of the gentleman from Cook, Mr. Michal, who defended the present system that I did, but there was a principle embodied in what he said that reflects a certain state of mind that is tremendously important. The court of a state of the Union is a little different institution than a Federal Court. The Federal Courts, a moment's reflection will convince us, has a certain character of perogative to meet. The union of the sovereign states for Federal government purposes require certain kinds of organization of judicial tribunal. No government of the sovereign states can be higher than the average of its people, and the most important perogitive of government for the sovereign state is its judicial organization and tribunal. That tribunal can never be higher than the average of its citizens. Now, I firmly believe that a better class of lawyers, and by that I refer solely to the question of ability, would respond to the invitation for judicial service under an appointive system, and I confess in my own mind that I find myself debating between two opinions, in determining whether I would favor the appointing or electing system, but while there might be a higher standard of learning on the bench under an appointive system, it

is the common experience, I believe of the lawyers out on the prairie that the best judges are rarely the best lawyers and there are many members of the profession that are good enough lawyers that they know they are temperamentally unfitted for judicial service, and it is a matter of common discussion among the lawyers that among the judges of a particular circuit those who are reversed less in the upper courts are conceded often to be those of lesser legal training and ability.

Now, remembering that this high tribunal, the most important agency of government for the soverign state can never be better than its people, than the average of its people, there is a tremendous argument in my mind for keeping the choice of these judges close to the people; in order that it might accomplish a two-fold purpose, first, that the courts never become autocratic, and second, that the people feel a kind of veneration and relationship for the court which is their court, that will spell for better government and better condition of law and order in society, and another thing that must be remembered, the responsibility of government must ever be kept in mind to rest fundamentally upon the people, and the mere suggestion of an appointive system carries with it the idea of aristocracy, or if you please lack of immediate contact with the people, which is to some extent dangerous, as I reflect upon it. Now, therefore, I believe that our experience with the method of selecting judges and putting them through the gauntlet of public opinion in order to be promoted has been largely responsible for the development of the idea of appointment. It is not fair to drag a judge through two elections at his own expense praying with the people for votes. I believe it has got to be a fundamental principle of government in this country that it must be run by political parties, and I know no better way for a judge to keep in touch with the people than to be active in some political party, and down State it has never wrought any great hardship or injustice or resulted in any bad promotions. In my own circuit which is tremendously Republican in its political aspect there are two Republican and one Democratic judge on the bench. That is true of a great many circuits in this State; the activities of these men in politics before they were promoted to the bench all over Illinois is a matter of common knowledge. They made themselves felt in the government of their State by their political activities and the political judges have usually made the most satisfactory judges because nothing is more unfortunate than for a judge to imagine when he is elected he is any different kind of man than when he was a lawyer and therefore I have risen at this time as one of the down State delegates to the Convention—I had so much preferred that my good friend from the south, Judge Mack or Judge Wall could have made this speech, but they are not here, and I know they would have seconded what I have said. There is more to the court than Cook county, and there must be borne in mind the thought that these courts after all are creatures of the people, responsible to the people, and they must be tied to the people. (Applause.)

Mr. BRENHOLT (Madison). I make a motion that a vote of thanks be extended to the gentlemen who have appeared before us today and given us the benefit of their information.

(Motion prevailed.)

Mr. TODD (Peoria). I move that the committee do now rise, report progress, and ask leave of the Convention to sit again.

Mr. DEYOUNG (Cook). Your committee now begs leave to report it has made progress and asks leave to sit again at such time as may be convenient.

(Report of the committee concurred in.)

Mr. DEYOUNG (Cook). I would suggest that the committee have the recommendation of the Committee of the Whole for the purpose of considering proposals under consideration today by fixing some time next week or

thereafter. I have a number of requests from men in different parts of the State who cannot appear here until next week.

THE PRESIDENT. No further business, a motion to adjourn will be in order.

Mr. BRENHOLT (Madison). I move we adjourn.

(Motion prevailed.)

Whereupon, an adjournment was taken by the Convention until Thursday, February 12, 1920, at ten o'clock a. m.

THURSDAY, FEBRUARY 12, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, Rabbi Edward L. Israel, Temple B'Rith Sholom.

THE PRESIDENT. The Journal of Tuesday, February 10, 1920, having been printed and placed on the desks of the members on yesterday is now subject to correction. There being no correction proposed, the Journal of February 10, 1920, will stand approved as printed, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure presents a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in Committee of the Whole on next Tuesday, February 17th, namely:

The consideration of Proposals numbered 133 and 134, respectively.

Mr. DOVE (Shelby). May I say just a word to the Convention relative to these Proposals? The request for this special order comes as a result of the unanimous action of your Committee on Initiative, Referendum and Recall, and it was the opinion of every member of that committee irrespective of what our preconceived views may be as to the advisability or inadvisability of incorporating into the Constitution of this State any initiative and referendum to accord to every person a full, courteous and respectful hearing on these subjects. The Initiative, Referendum and Gateway Amendment league have requested of this committee the privilege of being heard on Proposals numbers 133 and 134 offered yesterday by Delegate Wolff (Cook) and it is for the purpose of hearing the representatives of that league, namely, Ex-Governor Dunn, chairman of the league, Charles E. Merriam of the University of Chicago, Harriet Taylor Treadwell, president of the Political Equity League, Willis J. Spaulding, Duncan MacDonald and Dr. Herbert S. Bigelow, on next Tuesday, and your Committee on Initiative, Referendum and Recall indulges in the hope that this report may be by the Convention unanimously adopted.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). I offer the following resolution and move its adoption:

RESOLUTION No. 20.

Resolved, That the Secretary of State be and he is hereby requested to cause to be prepared ready for occupancy by one or more of the committees of this Convention on Tuesday morning next, room 530, in the State House, which said room was by the last General Assembly expressly reserved for the use of this Convention and its committees.

(Resolution adopted.)

Mr. WARREN (DeKalb). I offer the following resolution:

RESOLUTION No. 21.

WHEREAS, The Delegates to the Constitutional Convention of the State of Illinois have learned with sorrow of the death of Mrs. Edward H. Brewster,

the beloved wife of Edward H. Brewster, a Delegate to this Convention from the Thirty-fifth Senatorial District, on the seventh day of February, nineteen hundred and twenty, at Dixon, Illinois; therefore be it

Resolved, That the Delegates to the Constitutional Convention express their deep regret at the loss to Mr. Brewster and to his children, of the loving comradeship and counsel of a devoted wife and mother, and that they extend their sympathy to the members of the bereaved family; and, be it further

Resolved, That this resolution be spread on the records of the Convention and that a copy thereof suitably engrossed be forwarded to the family.

(Resolution adopted.)

THE PRESIDENT. The Committee on Rules and Procedure presents a further report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in Committee of the Whole on next Wednesday, February 18th:

The consideration of the various Proposals concerning a proposed judicial system, and especially the consideration of Proposal No. 56.

(Report adopted.)

THE PRESIDENT. On January the 28th the Convention adopted a resolution to commemorate the birthday of Abraham Lincoln and set eleven o'clock as the time for the services appropriate to the occasion. Some of the persons who were to take part in that program have not yet arrived at the hall, and I would suggest that the Convention be at ease until eleven o'clock.

(Whereupon the Convention was at ease until eleven o'clock.)

THE PRESIDENT. The hour of eleven o'clock having arrived we will now enter upon our program for the celebration of the birthday of Abraham Lincoln pursuant to resolution heretofore adopted. The Convention appointed a committee on arrangements to make the appropriate arrangements for this ceremony. On that committee the President appointed as chairman, Delegate Jarman of Schuyler county, and I will ask Delegate Jarman to take the chair and to introduce the speakers to the crowd.

Whereupon Delegate Jarman took the chair.

CHAIRMAN JARMAN. I want to first explain that invitations were sent to those persons who were members of the Convention of 1870 to attend these exercises, and we have received letters from three; the Honorable George W. Hall, Honorable J. W. McNeely and the Honorable John M. Woodson. All of these gentlemen answered the invitations but were unable to be present. Mr. McNeely was also a member of the Convention of 1862.

Now, I am compelled to make another explanation. The programs that you have before you contain the names of Mr. Quinn, Mr. Mayer and Mr. Morris as speakers on this occasion. These gentlemen have been detained and it is impossible, as we have it by wire, for them to be here, except Mr. Morris is here, but on account of sickness is unable to speak. In this program Captain Carlstrom has agreed to take the place of these gentlemen, very generously and without much notice.

It would seem most fitting that this Convention should pause for a time in its deliberations to turn our thought to the life and character of Abraham Lincoln.

Not since he uttered those immortal words on the field of Gettysburg, "that government by the people, of the people, and for the people may not perish from the earth," has our country and its institutions been in greater danger than now.

Greater strength and courage, to meet these threatened dangers, cannot be gained from any higher human source than from the life and counsel of Abraham Lincoln.

As you approach this Capitol from the east and look upon his statue, it seems to appeal for fidelity, for law, for patriotism, for unselfish public service.

It seems to guard the portals of this State House against the intrusion of corruption, of unholy ambition, of political intrigue, of injustice.

It seems to demand, with the authority of one who died for his country, that he who enters here shall swear to do his duty.

History gives us no assurance that this nation will continue to exist, except it shall be governed in its laws and in the life of its people, by those virtues which were the virtues of Lincoln.

If we shall hear his voice and heed his counsel, by insuring justice, by establishing righteousness, by promoting peace, by protecting the weak, we shall then conserve the rich heritage of our liberties. If we refuse to listen, we shall die as other nations have died.

So again on this 12th day of February we come to hear the words of eminent men spoken concerning the life and character of Lincoln, that we may be strengthened in our courage and fidelity to our State and country. (Applause.)

(Whereupon the following program was rendered):

PROGRAM.

Male Quartette.....“Battle Hymn of the Republic”

CHAIRMAN JARMAN. Our great troubles in this late war seems to have determined three propositions: First, the gripping hand of the law should crush every man that is against his country; second, that the scorn of public opinion should crush every man that refuses to help his country; third, that the standing of every man in his community should be measured by the degree in which he does help his country. I introduce to you Captain Carlstrom, of Aledo. He voluntarily enlisted in the service of his country; he went to France and came home commissioned as a captain of artillery. Captain Carlstrom. (Applause.)

Mr. CARLSTROM (Mercer). Mr. Chairman, Gentlemen of the Convention, Ladies and Gentlemen who have come here this morning as our guests:

I feel exceedingly presumptuous in standing before you today, especially in view of the fact that night before last while drinking a cup of coffee with two friends, both of whom are here, they, neither of them knowing that I had been asked to speak in the place of some of the gentlemen who had been originally detailed or requested to speak for you, were saying that “they guessed most of the fellows would go home tomorrow, they did not think many of them would care to hear the substitute speakers.” (Laughter.) I said, “That being true, I think I will recall my consent to speak, if that is the attitude.” Furthermore, the chairman of this morning’s exercises in mentioning the fact I would speak here, and the inability of Mr. Mayer and Mr. Morris and Mr. Quinn to be present, stated to you a few moments ago that I had kindly consented to take their place on the program. I should say that is a pretty big job for any man to fill the place of these eminent and distinguished gentlemen. I was asked only forty-eight hours ago to fill out the program because of the inability of those gentlemen to speak to you, and it is without preparation I speak to you today, but my friends, it seems to me no man who is a citizen of Illinois, or of this great country in which we live can be without speech when he stands in this great capitol building of the State of Illinois and in this place of many intimate associations with one of the greatest characters America has ever produced. It seems to me a man whose heart is touched by a sense of patriotism must be able to speak without any preparation, without any prepared thought, when he is inspired by the associations and traditions connected with the life of Lincoln which are centered about the City of Springfield in the State of Illinois, and it is peculiarly appropriate, my friends, that we of the Constitutional Convention should turn our attention from our labors in that Convention to the consideration on this day of some of the characteristics of the Great Emancipator, the great leader of American thought, the great exemplar of American citizenship, because from that fountain head, from these sources of character and ideals we shall certainly be

able to absorb something that will enable us to clarify our vision for the grave questions that will come before us for our determination.

In my judgment one of the things that has troubled America in the last two or three decades is, that we have become too intensely material and practical, and we have departed from the purity of the ideals which are embodied in the wonderful traditions of America, and which have gone to stamp the character of her men and women, and which have given her in the composite strength of that manhood and womanhood a national character that has made itself felt throughout the civilized world.

I feel, my friends, that regardless of the material complications that may be involved in the problems of today, that we shall never solve them rightly until we fill our hearts and souls and minds with the fundamental ideas of truth and justice. When we bring such a spirit to bear on these problems we have them already half solved. I think we may well take the time to re-consecrate ourselves at the altar of patriotism, to the standards of humanity as adopted by him, who one hundred and eleven years ago was born in obscurity in Kentucky, and whose fame will grow through the centuries as long as men appreciate and revere law and liberty; so long, my friends, as men shall hold these principles dear, the memory of his name and the ideals of his character shall remain and grow greater in lustre and beauty.

Let us turn for a moment to the consideration of those elements which were involved in his character, and it is a remarkable thing to me, and I have frequently said with regard to Abraham Lincoln, that his action, his attitude, his solution of problems, his understanding of the difficulties that presented themselves to him, and the wonderful way in which he trod through the maze of difficulties which surrounded him in the Presidency of the United States, the successes he achieved, can be explained on only one theory. He was not educated or prepared for the responsibilities of that office in the sense that we now understand such preparation. He was not graduated from some great college or university. He had not been taught by the learned men of the ages their ideas and standards from books. He had not passed through those tests which warrant the conferring of degrees from our colleges and universities, and he did not have those qualifications and preparation which we deem essential to the solution of the great problems of our time and which were necessary from a material standpoint even in his day, but the explanation of his remarkable foresight and success has always seemed to me to be this: As he wandered around in the obscurity of the wilderness there in Kentucky, and that cabin on Big South Fork of Nolin creek near where he was born, as he travelled with his mother and father and their family to their home in Indiana and spent his early years there and then came across to Illinois, that during all those years of the early experience of Lincoln, and later as he trod the Valley of the Sangamon, he was attended by sorrow, disappointment and bitterness; in the loneliness, I believe, of those experiences of sorrow which teach men the fundamentals of truth by reducing them to the primeval condition where the spirit seems to touch and contact with the powers that govern and lead the souls of men, he under those circumstances spending his early years in the valleys and great open reaches of prairie in Illinois, my friends, I believe, came to know and understand the power of the God of Truth and Simple Justice, and to understand in a measure the purposes of the Divine, and it was that intimate conception of Primal Truth which gave him clarity of purpose and vision and explained his wonderful grasp and conception of his great problems and enabled him to see with a clarity not given other men far more educated than he.

I say again, as we are approaching the deliberations of this great Constitutional Convention, for that is the thing that is on my mind and on the mind and hearts of every man in it today, the responsibilities that rest upon us, as the Governor said in opening this Convention, "that the sovereign power of the people of Illinois had for the moment been intrusted to our care," and when that great power has been intrusted to this body, it is essential and necessary that we drink at the fountain of knowledge and under-

standing which Abraham Lincoln found, in order that we can apply the eternal principles of justice and equality to the conclusions which we shall ask the people of the State of Illinois to accept.

I am moved to refer to a little paragraph which you will find on the back of your programs, and it is as true now as when it was uttered by Mr. Lincoln:

"Intelligence, patriotism, Christianity, and a firm reliance on Him who has never yet forsaken this favored land, are still competent to adjust, in the best way, all our present difficulties."

Reference has been made to the great war through which we have passed. Our part in it as a nation was one of which we can indeed be proud as it was a privilege for any man to serve his country at that time, and the thing that impressed us across the sea perhaps more than any other one thing was the wonderful way in which America responded to the demands made upon her in 1918. It seemed to us, looking at it across the sea, noting the activities of our people as a whole—it seemed to us that America had so welded herself together in the high purposes of upholding and supporting the purposes of our government—she had so welded herself together that she was no longer a body of one hundred million units, but one great living powerful entity, which seemed to have taken unto itself a heart and a soul, and that heart beat, my friends, with a power that was psychologically felt across the sea; it steeled the arm, strengthened the sinew and gave vigor to the men who represented you and me over there, because America had resolved itself with a singleness and unselfishness of purpose to the accomplishment of a great cause, and for example when men were called upon to subscribe to the great Liberty loans and other war funds and activities and if they said, "we cannot afford to do it, we do not know what is going to become of this thing," the answer was, "if we fail all you have means nothing anyhow, and if we win, as we will, the government of the United States stands back of all you have done, and you need have no fear what the result will be."

Ultimately, therefore, in the last analysis, my friends, ideals and character and government are those things which are permanent and lasting; the material things we must of course in a practical sense dispose of, but ideals we must have as controlling and governing in the conduct of men. We learn those things from the character of this great man. I know there are those here who will speak to you much more intelligently and better than I on the life of Lincoln, as they can speak with personal knowledge on that subject, and I will leave that to them. All through those years that Abraham Lincoln was passing through the experiences until finally he was selected in the old Wigwam at Chicago to fill the highest place in America, and until that day in bidding affectionate farewell to his friends and neighbors of Springfield when leaving to assume the duties of the Presidency, he uttered those memorable words inscribed on his memorial out here in the Capitol yard—(and I think every man should read what is written there because it is the outpouring of a great soul to those who understand)—until after all his hardships and trials he was beginning to achieve something of the reward due his noble character, and in traveling to the seat of government at Washington his utterances from time to time were moving the country to appreciate the greatness of his character he was but building in simplicity on the solid rock of eternal right and truth. I thought of this, that Chief Justice Taney, of the Supreme Court of the United States who wrote the Dred Scott decision which Lincoln had criticized, should administer the oath of office to him, was significant of the meeting of two great opposite forces. When he sought to meet the great problems of government, because they did not understand and appreciate his ability to meet them and misinterpreted his humility of character, members of his Cabinet thought him weak. Yet slowly but firmly he showed them that he (Lincoln) was President of the United States, and that the powers of government rested upon him, and that he would discharge the duties that resulted therefrom and assume full responsibility, which he did. When at last the time came, when final victory in the great cause was achieved, his words as he

came to the close of that bitter chapter in American history, "With malice towards none, with charity to all, with firmness in the right as God gives us to see the right, let us strive on to finish the work we are in," are classic and a guiding principle for us all even to this day.

When that terrible blow fell upon America and the news flashed over the wires that the President had been assassinated, and his body moved in state from the east to the west that his remains might sleep in the bosom of the prairies from which he had gained his inspiration of Freedom, the whole people of the United States, as they knew the great leader had gone out from among them and America had sustained a loss that she could not retrieve, crowded to the stations as the funeral train passed through, and regardless of storm or rain great masses of the people assembled and bowed their heads silently in realization of the loss of the nation, and while they believed it was an irreparable loss, and it was, yet "God moves in a mysterious way his wonders to perform." Lincoln is dead! Yet we ask, is he dead? Is David dead? Is any man who has been worth living, dead? No. Disenthralled of the flesh he has risen into that illimitable sphere into which passion and hatred never come, and henceforth his life shall be engrafted upon the eternal and will be more fruitful than any earthly life can be."

We think of the great truths he enunciated, which could be repeated by the hour, and always there was wonderful philosophy in what he said, and we know it to be true that eternally he clove to those fundamental principles which are the foundations of government, and which we must do here, if we would succeed. It seems to me in the adoption of the great fundamental law of our State that the one thing we should seek to keep uppermost in our minds is the preservation of those guaranties of life, freedom and right to our people which must not be transcended by any authority but remain permanently guaranteed.

In conclusion, my friends, I just want to say one thing: Let us study the life of the Great Emancipator, and let us make it a part of our religion and creed. America needs more than ever in her history a conception and understanding of the fundamental principles of republican form of government and a form of government that is truly representative in its character. Those problems are facing us today. They are vital. They strike at the very root of our government. The future is in your hands and mine. I think the last sentence of the preamble of the Constitution of the United States, and we must concede that the men who wrote that great document looked down through the vista of the years impressed by the desire to guard the rights of generations yet unborn—"and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America," and I would like to impress upon us all in approaching a solution of the problems that are confronting us today, that they be not solved for the selfish purposes of this generation, but be solved with regard to the rights and the happiness of our children and our children's children, and when we seek to thus rightly solve them we can do no better than study the life and utterances of Lincoln and apply these to our conception of our relation to society, and we need clarity of and allegiance to the fundamentals of government more than a solution of the high cost of living, or other material problems that confront us, because they are temporary in character, and we must have in the hearts of the citizens of America a concept of the government which has made America what she is; we must preserve for future generations these things in the same spirit and with like conviction as shown by Lincoln in that first trying year of his presidency, when they sought to have him take a position that was a compromise, and he said, in substance, "This union must stand at any cost or sacrifice. Whatever is necessary to preserve it, I will do." I speak to you earnestly and feelingly along these lines. We should try to instill into the heart of every man, woman and child in America the conviction that the institutions of America and principles of American representative government are such as to be worthy of being guarded and defended zealously at whatever cost and we must get away from the idea of associating ourselves in groups selfishly, and cleave

unswervingly to that standard of citizenship and a just regard for our free institutions and the permanency of America as a great nation that will be worthy of the traditions and assure the fulfilling of her great destiny and we can do that by using such standards as men like Abraham Lincoln have set for us. When we think of how grievously he was misunderstood, we cannot help but utter the prayer, Oh, God, that men could see a little clearer, or judge less harshly when they cannot see. Oh, God, that men could draw a little nearer one another, They'd be nearer Thee, and understood. My friends, I thank you.

(Applause.)

CHAIRMAN JARMAN. To touch the hem of a great and good man is an influence never lost. To have come in contact with the life of Abraham Lincoln in a little way as a boy is an experience never to be forgotten. Mr. Conkling, a loved citizen of the City of Springfield, conveyed to Mr. Lincoln the wire message notifying him of his nomination as candidate for the United States Presidency. I now present to you Mr. Conkling.

(Applause.)

Mr. CONKLING (Sangamon). Mr. Chairman, Fellow Delegates, Ladies and Gentlemen:

I shall not attempt upon this occasion to pronounce a eulogy upon Abraham Lincoln. After the eloquent and stirring words of the gentleman who has preceded me it would ill become me to attempt anything of the kind, even should I be able, and in view of the words that shall be spoken after I have done, it would be still more presumptious for me to attempt a eulogy upon Mr. Lincoln, but I desire to give to you this morning a few things which will give the setting in the midst of which Mr. Lincoln lived. I wish to refer to two or three incidents that will enable you more thoroughly to understand the eulogies that have been and will be pronounced, for what I say will be simple and will form a setting and background to the picture which others may paint.

With much reluctance I yielded to the request of the committee when they asked me a few days ago to say something on this occasion about Mr. Lincoln, and especially how he received the news of his first nomination. The time is entirely too short to do justice to the subject, and my ability is not equal to the task; but in a conversational way I trust I may say a few things that will be interesting.

The original settlers in this region were largely from Kentucky, Tennessee and Virginia, and were mostly pro-slavery in their feelings. More than one captured slave from Missouri and Kentucky was carried back through the streets of this town of Springfield in chains to be returned to bondage without effective protest and with the approval of the mass of the people. After a while a stream of emigrants came from New York and New England. The two principles of slavery and freedom here met and battled. One of the stations of the underground railroad was here, another at Farmington and so on at intervals to the north part of the State.

Meanwhile at New Salem, twenty miles west, Abraham Lincoln was preparing to be a lawyer. He was admitted to the Bar, and one day in March, 1837, seated on a borrowed horse, with all his earthly possessions, among which was a law library of two or three volumes, in a pair of old saddle-bags, he rode into Springfield from the west along what is now Jefferson street. William Butler, then living at the southwest corner of Madison and Third streets in a good brick house in the midst of a large garden, invited him to take his meals with his family. Passing on to the general store of Joshua Speed, whom he knew, he asked the cost of a bed and other things. Speed told him what his list would cost. It was more money than he had. "Come upstairs," said Speed. "and see if we can't fix you up." There Speed showed him a bed and said, "half of that is yours if you'll take it." Placing his saddle-bags on the floor beside the bed, Lincoln said. "well, I'm moved." This first home of Lincoln in Springfield, and where he and Speed kept bachelor apartments, was in the second story of a two-story brick building on the northwest corner of Adams and Fifth streets, where Herndon's store now is.

At the time of Lincoln's arrival, most of the houses on the Square were on the north and west sides. They were mostly small wooden structures. The two-storied brick row of three, of which Speed's store was one, were the most pretentious on that side of the Square. At the northwest corner of the Square was a row of five two-story brick buildings called "Hoffman's Row," running north on the west side of Fifth street. In the upper room of one of these Stuart and Lincoln had their law office, for Major John T. Stuart had taken Mr. Lincoln into partnership with him immediately upon his arrival.

At that time "Chicken Row" on the north side of the Square was the place where chickens, butter, eggs and other produce were sold. Wooden awnings covered the sidewalks. It was the market place for the people. The common coins in use were large copper cents, silver five and ten cent pieces, the latter known as dimes, and bits or shillings and quarters, the latter usually called "two-bits." A bit or shilling was 12½ cents. The New York or long shilling was 16½ cents.

About the time that Mr. Lincoln made his home in Springfield it required from seven to eight days to come from Chicago. The fare was $25 in gold. Railroads were unknown. There were no telegraphs. The mails were very irregular. There were no postage stamps and letters were sent without pre-payment of postage, the receiver having to pay from ten to twenty-five cents for postage before he could get his letter.

Springfield was then a straggling village containing a few hundred inhabitants. The main part of the town was situated on both sides of Jefferson street, north of what was known as the Town Branch and west of Sixth street, and was locally known for many years as Old Town. The houses were mostly built of logs. The new and better improvements were extending east and south. The center of business, which had been at the intersection of Second and Jefferson streets, was now gathering about the Square, in which there had been built in 1831 the court house. This was torn down in 1837 when the capitol was removed from Vandalia to this place, and room was made for the erection of the new capitol, the present court house. The courts were held for nearly two years on the ground floor in Hoffman's Row, Mr. Lincoln's office being above one of the court rooms.

The partnership with Mr. Stuart lasted for four years. Then came the partnership with Stephen T. Logan under the firm name of Logan and Lincoln, with offices in the third story of the building now standing on the west side of Sixth street at the southeast corner of the Square.

At this time Dr. John Todd lived on the south side of Washington street between first and second streets, occupying the whole of the block. His was a typical Southern home with a large gallery in front. Here stayed with him at intervals his niece, Mary Todd, afterwards Mrs. Lincoln. Part of the courtship between her and Mr. Lincoln took place in this house; also in the home of her sister, Mrs. Ninian W. Edwards, on South Second street, and, when a temporary coolness arose between them, Mrs. Simeon Francis, who lived at the southeast corner of Sixth and Jefferson streets, befriended the couple, and here they laid the plans for their hasty wedding.

My mother was a young lady here at that time, having come from Baltimore, Maryland. She was intimately acquainted with all the Edwards and Todd families, and was a friend of Mary Todd. She has told me repeatedly that the story in Herndon's book that the wedding was set and the guests assembled but that Mr. Lincoln did not appear and that the company separated is not true. The same story is indignantly denied by members of Mrs. Edwards' family, who by actual knowledge and tradition know the story to be untrue.

Mrs. Benjamin S. Edwards, in her reminiscences written in 1900 said this about Mary Todd:

"I must tell of my acquaintance and friendship with this most interesting woman, Mary Todd. I was attracted towards her at once. The sunshine in her heart was reflected in her face. She insisted upon my calling her by her first name, saying she knew we would be great friends and I must call her Mary. This bond of friendship was continued to the end of

her life. Mary Todd had naturally a fine mind and cultivated tastes. She was a great reader and possessed a remarkably retentive memory. Her brilliant conversation, often embellished with apt quotations, made her society much sought after by the young people of the town. She was quick at repartee and, when the occasion seemed to require it, was sarcastic and severe.

"About that time Springfield society contained some of the brightest young men that any State could produce, men whose names hold a prominent place in Illinois history and who came together here during the sessions of the legislature. * * * These legislative assemblies were always the occasion of many social gatherings for distinguished men from every part of the State, who came to the capitol, and were royally entertained by our ladies. There was then a galaxy of beautiful girls whose vivacity, intelligence and propriety of deportment would entitle them to the entree of the choicest society of any city. It was a brave set of young people with a congeniality of mind and spirit such as is seldom met with in these days. I have heard that at this time Mary Todd was the center of attraction."

She also said:

"Mr. Lincoln, I think, was acknowledged to be the most popular and agreeable talker of the young men. His stories were always listened to with the greatest attention and enjoyed immensely. I heard a rumor of an engagement between Mr. Lincoln and Mary Todd, yet I considered it one of those unfounded reports always floating in society, for I really thought Mr. Douglas was more assiduous in his attentions than Mr. Lincoln."

The wedding took place in Mr. N. W. Edwards' parlor and hardly anyone but members of the family were present.

The couple at once took rooms at the Globe Hotel, at the modest price, it is said, of $4.00 per week. This house was situated on the north side of Adams street between Third and Fourth streets. It was a plain two-story wooden structure and was the stage office for the lines from St. Louis and from Jacksonville and Beardstown on the west, and from Peoria on the north. It had a bell on the top, much like a locomotive bell. Many of the travelers came in their own conveyances. The clerk would ring the bell and the stable men would come around to take the horses of the travellers to the barn in the rear. This place continued to be a hotel under different names for some years, and during my early boyhood I have often seen the stage roll up in front and have heard the bell ring when some traveller came. In those days I thought that the very height of a boy's ambition would be fulfilled if he could only become a stage driver.

In those days and for many years thereafter, indeed, until the latter part of the sixties, Springfield was not only known as the Capitol of the State, but also as one of the most unattractive places to be found. In bad weather the streets approached the condition of a quagmire with dangerous sink-holes where the boatman's phrase "no bottom" furnished the only description. An absence of civic pride made them the dumping ground of the community rubbish, so that the gutters were filled with manure, discarded clothing and all kinds of trash, threatening the public health with their noxious effluvium.

The problem of the hog nuisance and of the running at large of cows came up time and again, and most frequently the owners of the stock succeeded in having full freedom given to their property to wander through the streets at will. One paper stated that the hogs were more numerous on the streets of Springfield than in the pens of the State Fair Ground, and another paper said that they had equal rights with the citizens upon the streets.

When Mr. Lincoln came here there may have been 1,600 people in the city. In 1840 there were probably not over 2,000. In 1850 the population was 4,500 and in 1860 a little over 9,000.

It was into a place of this kind and amidst surroundings like these that Mr. Lincoln came and lived and practiced law.

His partnership with Major Stuart was dissolved because of political differences, Mr. Lincoln being a Whig, and opposed to the further extension of slavery; Mr. Stuart being pro-slavery in his leanings.

The partnership with Judge Logan was terminated after two years, because of differences of opinion about how much to charge for fees and as to the conduct of cases. But all three of the men during all the remaining years of their lives were warm personal friends.

Mr. Lincoln rode the circuit—that is, with the judge and other lawyers in this judicial circuit, they went from county seat to county seat opening the terms of court. The courts often met and adjourned the same day, the cases were so few. Yet court days were gala days with the people. The circus and the courts provided the principal holidays for the masses.

Mr. Lincoln generally rode the whole circuit, but Mr. Stuart also attended the courts in the northern part of the district, and those in the counties adjacent to Sangamon. The country was then comparatively unsettled. Between Fancy Creek, just north of Springfield and Postville, near Lincoln, there were only two or three houses. Beyond Postville for thirteen miles was a stretch of unbroken prairie, flat and wet, covered with gopher hills and apparently incapable of being cultivated for generations. For fifteen or eighteen miles this side of Carlinville the country was of a similar character, without a house or improvement along the road. The lawyers would travel between Decatur and Shelbyville from nine o'clock in the morning until after dark over a country covered with water from recent rains, without finding a house for shelter or refreshment. The tall grass in the low places was higher than the horses' heads, while in the higher parts of the prairie the grass covered the ground as far as the eye could reach, and in the springtime was covered with innumerable flowers. The prairie rattlesnakes would often be found coiled up in the road sunning themselves, and in the evenings as the traveller passed from the prairie down to the edge of the timber, it was very common to see the black and white pussy-like skunks, which would run along in front of the horse in the roadway for quite a distance before they would oblige by turning off into the grass. The snakes were frequently killed with the buggy whip, but care was taken never to strike the wood's pussy.

At the hotels and in the court rooms the lawyers were ever ready for fun, conversation or legal battle.

The present court house, whose corner stone was laid in 1837, but whose interior has been entirely changed, was then the State House. Within its four walls and in the various offices that then existed, on up to 1861, Mr. Lincoln was a frequent visitor and every room had its memories of him.

In the Hall of Representatives, which was in the second story on the west side, on June 16th, 1858, he delivered the celebrated speech, in which he said, "A house divided against itself cannot stand. I believe this government cannot endure half slave and half free. It will become all one thing or all the other." I sat on the steps of the platform within arm's reach of Mr. Lincoln as he delivered this speech.

The Republican National Convention met in Chicago on May 16, 1860. The interest throughout the country in the results of the meeting was intense. The general opinion, especially in the East, was that William H. Seward of New York would be nominated, although Horace Greely and others from New York were opposed to him.

The Illinois Republican State Convention on the ninth of the same month had declared Abraham Lincoln to be the first choice of the Republican party of Illinois for the Presidency. Many delegates and politicians thronged the city several days before the convention. Mr. Lincoln's friends were early on the ground, working earnestly and effectively to create sentiment in his favor.

To a Chicago friend who shortly before the convention asked him, "Are you coming up to the convention, Mr. Lincoln?" he replied:

"Well, I don't know. I am not quite enough of a candidate to stay away and too much of a candidate to come."

Mr. Lincoln was present at the State Convention at Decatur but did not go to Chicago. He remained in Springfield, went to his law office as usual, received reports of the progress of events by telegrams, letters and from persons returning from Chicago, visited with his friends to discuss

the situation and prospects, and occasionally, as was his wont, joined in a game of hand ball, the then favorite pastime of the professional men of the town.

The only wires into Springfield in 1860 were owned and operated by the Illinois and Mississippi Telegraph Company and were called the "Caton Lines," after Judge John D. Caton of Ottawa, president of the company and one of its organizers. Its principal office was at St. Louis. John James Speed Wilson, afterwards known as "Col. Wilson," was superintendent of the Eastern division, with headquarters at Springfield; E. D. L. Sweet was superintendent of the Western division, with his office in Chicago.

The local Springfield offices of the telegraph company in May, 1860, were in the upper story of the building known as No. 121 South Fifth street and over Chatterton's jewelry store in the middle of the west side of the Public Square. In this building were the law offices of James C. Conkling, a warm personal and political friend of Mr. Lincoln.

Mr. E. D. L. Sweet during the convention had charge of all the telegraphic arrangements. There was only one wire into the "Wigwam" as the convention hall was called. This was connected in the main city office with the eastern wire of the Western Union—it being the general opinion that the nomination would go to an Eastern man, Seward being the one most often mentioned in that connection. Mr. Wilson was in Chicago during the convention and divided his time between the main telegraph office at the southeast corner of Clark and Lake streets and the "Wigwam," a building erected for the occasion at the corner of Market and Lake streets. Most of the personal messages from delegates to Illinois points were sent from the convention hall to the main office of the Caton company by messenger boys.

On Friday morning, May 18, 1860, the third day of the convention, the delegates were to meet to ballot. James C. Conkling of Springfield, who had been in Chicago several days, but was unexpectedly called back, arrived home that morning. About half past eight o'clock Mr. Lincoln came into Mr. Conkling's office inquiring for him, as he had just heard on the street that he had returned from Chicago. On being told that Mr. Conkling was not in but probably would be in an hour, Mr. Lincoln said he would go out on the street and come back again as he was anxious to see Mr. Conkling. Presently the latter came in and Mr. Lincoln again called.

There was an old wooden settee by the front window on which were several buggy cushions. Mr. Lincoln stretched himself at full length upon this settee, his head on a cushion and his feet over the end of the settee. For a long time they talked about the convention. Mr. Lincoln wanted to know what had been done and what Mr. Conkling had seen and learned and what he believed would be the result of the convention. Mr. Conkling replied that Mr. Lincoln would be nominated that day; that after the conversations he had had and the information he had gathered in regard to Mr. Seward's candidacy, he was satisfied that Mr. Seward could not be nominated, for he not only had enemies in other States than his own, but he had enemies at home; that if Mr. Seward was not nominated on the first ballot the Pennsylvania delegation and other delegations would immediately go to Mr. Lincoln and he would be nominated.

Mr. Lincoln replied that he hardly thought this could be possible and that in case Mr. Seward was not nominated on the first ballot, it was his judgment that Mr. Chase of Ohio or Mr. Bates of Missouri would be the nominee. They both considered that Mr. Cameron of Pennsylvania stood no chance of nomination. Mr. Conkling in response said he did not think it was possible to nominate any other one except Mr. Lincoln under the existing conditions because the pro-slavery part of the Republican party then in the convention would not vote for Mr. Chase, who was considered an abolitionist, and the abolition part of the party would not vote for Mr. Bates, because he was from a slave State, and that the only solution of the matter was the nomination of Mr. Lincoln.

After discussing the situation at some length, Mr. Lincoln arose from the settee and said, "Well, Conkling, I believe I will go back to my office and practice law." He then left the office.

I was present during a part only of this conversation and depend very largely for the details of the interview upon what my father, Mr. Conkling, and Mr. George H. Brinkerhoff, then a law student in my father's office, have told me.

A moment after Mr. Lincoln left, the wires in the adjoining telegraph office brought the news of his nomination and I rushed down the stairs after him. I met him coming out of his brother-in-law's store, just a few steps away, and all unconscious of the news. I cried to him, "Mr. Lincoln, you're nominated." Taking my outstretched hand in both of his great hands, a smile spreading over his face, he looked down upon me and said, "Well, Clinton, then we've got it."

Then the excited crowds surged around him and I dropped out of sight.

Mr. Lincoln's own version of the story is that he had gone into the dry goods store of N. W. Edwards & Company on an errand for Mrs. Lincoln. "I had started out," Mr. Lincoln afterward told a friend, T. W. S. Kidd, editor of the Sangamo Monitor, "and Jack Smith (a member of the firm) walked to the door with me. As we stood there talking I heard a shout go up near the telegraph office. Then Jim Conkling's oldest boy came running up and told me I was nominated. That is the first I knew of it."

I was that boy.

Through the courtesy of Hon. Robert T. Lincoln there came into my possession five original telegrams received by Mr. Lincoln on the day he was nominated. All are on the Illinois and Mississippi Company form.

The first one sent was from the telegraph superintendent Wilson, shows signs of haste and bears no date. It reads:

"*To Lincoln.*

You are nominated.

J. J. S. WILSON."

This was the first message received for Mr. Lincoln announcing his nomination.

A moment after this message was sent a messenger boy brought to the main office in Chicago a message addressed simply "Abe" and which read, "We did it. Glory to God. Knapp." The receiving clerk brought the message to Mr. Sweet, calling his attention to the address, and also to the expression, "Glory to God." Mr. Sweet directed that words, "Lincoln, Springfield," be added and that the message be sent at once. This message is probably the first one to Mr. Lincoln from any person who was actively at work in his behalf in the convention and without doubt was from Mr. N. M. Knapp, then of Winchester, Illinois.

The next two telegrams are from J. J. Richards who was well known in earlier days in Springfield. He was connected with the Great Western Railroad Company and was its agent for some time at Naples, which was then the end of the road. He subsequently went to Chicago. These telegrams are as follows:

"To Abraham Lincoln

You're nominated & elected.

J. J. Richards"

"To Hon. A. Lincoln

You were nominated on third ballot.

J. J. Richards"

Mr. J. J. S. Wilson followed his first message, probably within a very few moments, by another which reads:

"To Hon. A. Lincoln

Vote just announced. Whole No. 466 necessary to choice 234—Lincoln 354 votes not stated on motion of Mr. Evarts of N. Y. the nomination was made unanimous amid intense enthusiasm.

J. J. S. Wilson"

In August of 1860 a most extraordinary mass meeting was held in Springfield by the Republicans, or as they were commonly known, "Black Republicans." People came in great companies, in wagons and buggies and on horseback and camped in the groves on the outskirts of the town for several days beforehand. There were many thousands of people from Cen-

tral Illinois here. The procession took eight hours to pass Mr. Lincoln's residence on Eighth Street. The crowd was so great that his friends feared for the safety of Mr. Lincoln, the people were so eager to see him. That evening there was an immense torchlight procession in the city in which most of the ministers and all State officials and very many prominent business men, young and old, marched with the old-time wide awake oil lamps.

Near the close of the year 1860 Mr. Lincoln rented his house to Mr. Tilton, superintendent of the Wabash railway and spent the last few weeks of his stay in Springfield at the Chenery House, which was situated on the northeast corner of Washington and Fourth Streets. Owing to the fact that the legislature then met in the fore part of December, Mr. Lincoln had to give up his reception room in the State House, and Joel Johnson, an old time friend of his, who had recently erected some brick buildings on the northwest corner opposite the Chenery House, offered him the use of his double parlors in the second story as a reception room for the remainder of his stay, which Mr. Lincoln gladly accepted. Mr. Johnson's buildings afterwards became known as the Revere House.

The night before Mr. Lincoln left, on February 11, 1861, for Washington, he had his trunks brought down into the office of the hotel. He "corded" them himself and then taking some of the cards of the hotel, wrote on the backs, "Lincoln, White House, Washington, D. C." and tacked them on the trunks. The next morning early, in a drizzling rain, he went in the old hotel bus to the Great Western Railroad station on Tenth and Monroe Streets. On a stub track which lay west of the main track and ended on the north side of Monroe Street, the car in which he and those with him were to go East was standing, and from the rear of this car he spoke his farewell address to his friends and neighbors.

On February 22, 1842, Mr. Lincoln delivered an address before the Springfield Washingtonian Temperance Society at the Second Presbyterian Church. In this address he referred to the political revolution of 1776 and then to the temperance revolution, and said:

> "And when the victory shall be complete—when there shall be neither slave nor a drunkard on earth—how proud the title of that land which may truly claim to be the birthplace and the cradle of both those revolutions, that shall have ended in that victory. How nobly distinguished that people who shall have planted, and nurtured to maturity, both the political and moral freedom of their species."

How striking is this language in view of the emancipation of the slaves in 1863 and the amendment to the Federal Constitution in 1919.

In closing his address Mr. Lincoln referred to the day as being the one hundred and tenth anniversary of the birth of Washington.

Today is the one hundred and eleventh anniversary of the birthday of Abraham Lincoln. Permit me in closing to substitute the name of the latter for that of the former and say of our martyr President as Mr. Lincoln said of Washington:

> "This is the one hundred and eleventh anniversary of the birthday of Lincoln—we are met to celebrate this day. Lincoln is the mightiest name of earth—long since mightiest in the cause of civil liberty, still mightiest in moral reformation. On that name a eulogy is expected. It cannot be. To add brightness to the sun, or glory to the name of Lincoln, is alike impossible. Let none attempt it. In solemn awe pronounce the name, and in its naked, deathless splendor leave it shining on."

I have thus endeavored to give you some of the settings amidst which this great man lived and from which he went after pronouncing this farewell address which is well known to you all. If what I have said will enable you more thoroughly to visualize the circumstances under which Mr. Lincoln grew and increased here to the time he left here, my object will have been done. It will be for others to analyze his character, to tell of his influence upon the world at large and to apply to the problems of the present day the teachings which he has left. Thank you. (Applause.)

Male Quartette—"Illinois."

CHAIRMAN JARMAN. Greater honor has come to few men than to be a soldier of his country and Governor of his State. I present to you Governor Fifer. (Applause.)

Mr. FIFER (McLean). Mr. Chairman, ladies and gentlemen: I can truly say that I am glad to be here upon this most interesting occasion, and I thank the committee for honoring me with a place upon this program, although I can say, if left to my own choosing, I should have preferred to be a silent listener to these exercises.

Now, friends, the hour is growing late and I promise I shall not detain you very long. I have commissioned my good friend and colleague, Mr. Kerrick, if I overrun my time to pull my coat tail and I will take my seat. (Laughter.)

We have already heard two excellent addresses and without any flattery to the gentlemen who have spoken, I do not hope to improve on anything they have said.

The story of Abraham Lincoln is now a thrice told tale, and it is almost impossible to say anything new on the subject. Competent critics have told us that more has been written and said of this great man than has ever been written or said of any man that ever lived. This strange man who, if he did not believe in dreams was greatly impressed by them, came among us and strode over this little grain of sand on which we live, and disappeared leaving the world in amazement and wonder at his great achievement. I am glad that I knew him. I saw him many times in the court room at Bloomington, where it is said he had more friends than in any other section of this great State of ours, and where he preferred to visit above all other places; and as evidence of this, he appointed our Circuit Judge Davis to the Supreme Bench of the United States. I used to see him in the court room, and when he was sitting alone not engaged in any way, he was the saddest object that my eyes ever rested upon; melancholy seemed to drip from the tips of his fingers. When spoken to his face immediately lit up with intelligence and interest and his whole appearance changed. I never heard him make but one political speech, and that was in 1858, during his great contest with Stephen A. Douglas, one of the greatest statesmen that this country has produced since the era of American independence. They had no joint debate there, but Douglas came down from Chicago in a special car with George B. McClelland, who at that time was connected with the Illinois Central Railroad Company, and his friends say that Douglas made the greatest speech of his life. He fairly tore up the ground, as they put it. Judge Davis and Sweet and others telegraphed Mr. Lincoln he must come and answer Douglas. He telegraphed back it was impossible, that he could not come. Judge Davis, at the head of a committee, came to Springfield and drafted him into the service. The meeting was in the court house square. No seats, everybody standing. Sweet introduced him; Sweet was then a young and a brilliant lawyer and a great personal friend of Mr. Lincoln's. Lincoln got up and started off rather awkwardly. He would run out on a sentence and if it did not suit him, he would come back and try again. The crowd around where I stood, and I was within ten feet of the platform, said "Pshaw, why didn't they nominate Sweet." Sweet had made a brilliant and beautiful little speech in introducing Mr. Lincoln; but presently Lincoln got going, and I declare to you I never heard such a speech before or since. I can repeat many of the sentences he uttered even now and before he was through, that crowd's faces were rivited upon the stand as though they had been hewn out of the solid granite. With that great arm of his he would raise his fist in the air and bring it down in emphasis and make your heart stop beating for awhile and ones hair stand on end.

I had no introduction to him. I simply saw him in the court room and saw him on this occasion.

Now, we can explain Washington but we cannot explain Lincoln. Washington was born under a monarchy; he was the richest man on the continent, of a distinguished if not a noble family, and it would be expected that he would win his place in the great Revolutionary War and in laying the foundations of our free institutions, but how can you explain Abraham

Lincoln? Born down here in the beech woods of Kentucky, in a frontier cabin, sheltered by clapboards and his cradle resting upon a puncheon floor, with only three months' schooling, he says himself, yet he wrote the best English of any American. I have a friend in Bloomington, who graduated from Cambridge, England, and he told me not long ago he was over there visiting, and he visited the great college of which he was a graduate, and while walking arm in arm with one of his professors down the halls of that great world University, they came to the end of the hall and there was hung up and framed some of Lincoln's productions, and his professor said to him, "There is the best English that was ever written." Now, think of it. This man born down here under some inauspicious circumstances, in the wilderness of America, writing English that is hung up in one of the universities of the world as a model! And yet the four men, in my judgment who wrote the best English in the world were, first, John Bunyan, a tinker, and he wrote Pilgrim's Progress while in jail. The next was Shakespeare; they say he was so illiterate that he did not write it, but he did; the next was Abraham Lincoln, a rail splitter, and the next was Mark Twain, a pilot on a Mississippi steamboat.

Now, when I read of that, it takes all the pride and dignity out of me so far as being a college man is concerned.

Now, how do we explain Lincoln? Oh, it is simply the verification of the old story. From the bull rushes and the mangers come the saviours and the benefactors of our race. Somebody has said that the saviours and the benefactors of our race in modern times have been born under the straw thatched roofs of Europe and the log cabins of America; that their cradles have been rocked by the feet of mothers whose hands at the same time were busy with the needle or the wheel. Abraham Lincoln was one of these moral heroes whose life teaches the world the great lesson that the indispensable basis of all true greatness is integrity of character, and without it, all of our seeming successes will in the end turn to ashes in our hands.

But my friends, these personal matters do not portray Abraham Lincoln. There is a larger Lincoln than the Lincoln who told funny stories and who wrote good English. His lasting and his permanent reputation must forever rest upon the fact that he saved the American Union. That he saved the institutions of our country, which were in sore travail, planted in the wilderness of America by our heroic forefathers and in order to explain the true Lincoln, the Lincoln of the Ages, you must measure his achievements. As he lay upon his bloody bier, Secretary Stanton pointed to him and said, "There lies the greatest leader of men that ever lived. He now belongs to the ages." And so he does. No man can become really great unless he connects his name with some great event, with some great movement in human affairs that benefit mankind. No man can become really great unless the event and the man come together, and then the man must rise to the occasion and this Lincoln did.

Now, in order to explain Abraham Lincoln, it is necessary to go back to the era of our Independence and see what kind of a government it was that Lincoln saved for us and saved for the world, and in order to explain that government, it is necessary to go still a step back and explain the government from which our government was derived.

I do not know why it was that the officials at Springfield ceased publishing Magna Charta in our statute books along with the several Constitutions of the State and if there is any way for this Convention to compel the re-publication of that great Charter, I am going to vote for it, because it is the greatest charter of human liberty that was ever written. It was written in the Thirteenth Century, the greatest of all the centuries so far as governmental affairs are concerned, and we will have to do with that great Charter before we get through making, as we hope to do, the best Constitution that Illinois ever had. Now, upon that instrument, the sturdy English people slowly and painfully erected the fabric of English Constitutional Liberty. The Constitution of England rests in four great charters: Magna Charta, written by a bishop of the Catholic church; then followed the Petition of Rights, that came in the reign of Charles the First. It was supposed all

authority came from the Lord; the Lord anointed the King, and the King anointed the dukes and the nobles, but none of that divine efflatus ever got down to the common people as was supposed. Charles the First after granting the Charter, tried to break it and the English people solved the difficulty by cutting off his head. In the next reign, Parliament passed the Habeas Corpus Act; and in the great Revolution of 1688, the last of the male line of the Stuarts was run off the throne and Parliament placed in permanent form the petition of rights, which was afterwards known as the Bill of Rights and became an act of Parliament. I want our good friend, Rinaker, to see to it that his Committee on Judiciary do not run their hands too deep into our Bill of Rights. It is centuries old. It was copied into the Federal Constitution and it appears in practically the same form in all the state constitutions of the several states.

When our forefathers came to these shores, they claimed that they brought with them as a protecting shield, the British Constitution. This was denied by George the Third, an insolent, haughty, overbearing and tyrannical prince who tried to rule by his own despotic will and this our revolutionary fathers would not submit to. The real hardships of the colonies were not very great. They had four grievances. First, taxation without representation; second, quartering of large armies in the midst of the people to over-awe and intimidate them; third, denial of trial by jury and the transporting of offenders beyond the seas to be tried in a strange land and fourth, the undue seizure of persons and papers. All violations of that great Charter I have told you about. All violations of the British Constitution. Well, our forefathers went to war about it and the world knows the results.

It has been said by British statesmen and the statesmen of the world that our revolution saved not only British liberty and the British Constitution for the subjects at home, but also for British subjects in the wilderness of America. We did not war against the British Constitution, we were claiming it as a right and as a protecting shield over us as a means of defense against the fiat of a despotic prince.

Now, competent British statesmen have said that our own Constitution which was fashioned after the British Constitution is the greatest instrument that was ever struck out at a single time, but you notice they say, at a single time, because they claim for the British Constitution that it was a matter of growth and development through centuries of time and that no human genius could ever have struck out at one time such a perfect instrument; from time to time it was changed to meet the demands of a developing people, and so today, they say it stands before the world as a perfect model.

Now, we did not adopt their kingcraft and their lords and dukes. The world for thousands of years had claimed that all just powers came from above, from the king, hence the barons wrung from old King John Magna Charta, after that the Petition of Rights from Charles the First, because it was supposed that all sovereign power rested with the crown. So when our forefathers come to lay the foundation of our institutions, they turned that doctrine upside down and declared that all just powers were derived from the people; the men who run your railroad trains, the men who labor in your shops and offices, and in the fields and the men who do the heavy drudgery of the warehouse and the street. They said, on their broad shoulders we will rest the foundations of our free institutions.

Now, this kingcraft and the lords and dukes were no real part of the British Constitution. It was only the cornice, the ginger bread, if you please, and we cut it all away and adopted all that was real and good of the British Constitution.

Well, at the beginning, our first act was to create a Continental Congress and authorized them to declare war, contract peace, and to sever the relations between the colonies and the mother-country. Then the succeeding year, they passed the Articles of Confederation. Both were revolutionary governments and held the colonies together as long as the war lasted by a sense of a common danger, but when the war ended, it was wholly unsuited to times of peace. If the Federal Government wanted men or money, it

had to make requisition on the several colonies; they would comply or refuse just as suited their convenience. Now, then after the adoption of the Constitution the Federal Government goes past the states and lays its strong hand, if it wants money or men, upon the shoulder of the individual citizen. Under the Articles of Confederation every lawyer and historian knows that the government was about to go to pieces. They could scarcely get a quorum in the Congress of the United States. Many of them resigned and went home and were elected to their state general assembly. It was of more dignity. The members of Congress under those Articles of Confederation were paid by the several states. They were not even responsible to the Federal Government for their salaries, and it was just about to go to pieces, and Washington saw it, and Hamilton, that colossal figure in American history, the greatest intellect in my judgment, produced by the revolutionary period, he saw, and Jefferson saw and Madison saw, it, and the result was the Constitutional Convention which was called simply to amend and revise the old Articles of Confederation, but when they came together they saw it was impossible to amend the Articles of Confederation, and they threw it on the ash pile, and made a new instrument entirely. It was largely the work of James Madison, of my own native state of Virginia. He was a graduate of Princeton. Those men in those days had large libraries. Jefferson got so poor, after he left the presidency, that he was compelled to sell his library. Congress bought it and drove a hard bargain, and paid him twenty-five thousand dollars, when it was worth fifty thousand. Madison had a greater library and so had Hamilton. Those men for the most part lived in the country where they could devote their time to study and abstract thought. Madison had read of governments from the time of Aristotle to the last one formed; he studied the republics of the past and so did Hamilton. They saw many had failed, and they saw why they had failed, and they knew it was because all the branches of government were united in one body. Therefore, they made a Constitution dividing the powers of government, so that the lower house would be a check on the senate and the senate on the house, the President upon both and the Supreme Court above all. So it is impossible for the people, so long as they maintain that form of government ever to be enslaved. They had their difficulties at the formation of the Constitution. There were the small states jealous of the big states. The little fellows were afraid of being swallowed up. There is the little state of Rhode Island, which has two counties when the tide is down and only one county when the tide is up; it refused to send delegates and did not come into the Union for two years after Washington had been inaugurated. Our fathers made a concession to the small states by giving them an equal voice in one of the legislative branches of the government. There was the slave question. North Carolina by reason of the slave question, did not come into the Union for a year after Washington was inaugurated, although concessions were made to the slave states. They extended the slave trade for twenty years; they provided for the return of slaves escaping to free territory; they provided also for representation of slaves by counting five as three citizens. Finally they got it fixed up, and everybody was satisfied, and when the Constitution was finished they seemed to be awed and overcome with the magnitude of the work they had done, because they knew they were legislating for the ages that were yet to come.

On the back of Washington's chair was a piece of tapestry intended to represent the rising sun, and Doctor Franklin, then a man of eighty-two years old, arose and said, with tears streaming down his eyes, "I have sat here day by day and month by month and as my eyes rested upon that figure I did not know whether it was a rising or a setting sun; but now, thank God, I know it is a rising sun." Now, friends, this is the government that Abraham Lincoln saved; these are the institutions that he preserved in the great struggle for the preservation of the American Union.

I have told you that no man by the agility of his individual intellect can ever become immortal. He must unite his name with some great event and the event and the man must come together. Now, you must know that in a

great event like where a new government was to be established that some man's name was destined to be sent to the Pantheon, and so it was. There are just two great events in this country that have transpired up to this time. One is the founding of our free institutions and the other is their preservation. So we see the arch that spans the first century of our government, one end is found at Mount Vernon, while the other rests down firmly upon the shoulders of Abraham Lincoln.

During the succeeding century we boasted we were the greatest country in the world, an ocean-bound republic; we were right about it; of course, we licked England every Fourth of July in our speeches and we were getting along all right, but finally, friends, we were called up before the judgment bar and hour of the God of nations and our boasted institutions went on trial before the civilized opinion of mankind. It was a supreme crisis, for if this great government failed, what other could ever hope to endure. The great Webster once said: "Should disastrous war destroy our commerce, succeeding generations will reconstruct it. Should our country become depleted and made bankrupt, future industry will replenish it. Should our territory be overrun by hostile armies and our agriculture destroyed, under a new cultivation our fields will grow green again and ripen to future harvests, but if our free institutions fail, if this government falls, who will rear again the well proportioned columns of constitution and liberty? Like the Coliseum and the Partheon, they will have a mournful and a melancholy immortality; more bitter tears will be shed over its ruins than ever were shed over the remains of Grecian and Roman art, but if they fall, they will not rise again.

Now, Mr. Lincoln, when that great crisis came kept his head, although publicly abused, not only by those who were seeking to destroy the Union, but by his misguided friends. They said to Lincoln, "You are not moving fast enough." The first crack out of the box, as we say in the language of the street, they wanted him to issue the Emancipation Proclamation; he saw it would not do. Wendell Phillips travelled over the country lecturing, and always referred to Lincoln as "that slave hound from Illinois." Why, my friends, Lincoln hated slavery more than Wendell Phillips was capable of hating it. There was more of him and he was a greater man than Wendell Phillips. He answered Horace Greeley when he was urging him to issue the Emancipation Proclamation, and said: "My paramount object is to save the Union. If I can save the Union by freeing part of the slaves, I will do that. If I can save the Union by freeing part and leaving others in slavery, I will do that. If I can save the Union by freeing none of the slaves, I will do that. I will do anything to save the Union."

He answered his critics by an illustration that shows his common sense. There was a man named Blondin about that time who stretched a wire over Niagara Falls and put another fool on his back and with a balance pole walked over the falls of Niagara. Answering these critics who said that he did not go fast enough, or did not lean over this way or that way, Lincoln called attention to Blondin and said, "If you had been there would you have said to Blondin, Blondin go a little faster, Blondin, don't go so fast; Blondin, lean a little to the left or right." No, he said, "You would have held your breath as you would your tongues until Blondin got safely over with his load."

Now, I am not going over the Civil War. The story of the Civil War has been told and retold and is as familiar as the primer to every school boy, but suppose Lincoln had failed. What a miserable spectacle we would have presented in the world's great crisis if we had had a divided Union. If this country of ours had been divided into two rival states, each governed and controlled by intrigue, and manuevering cabinets, and the Ohio River on both sides would have bristled with arsenals and standing armies on either side, and there would have been chronic and everlasting and eternal war between the two sections. Germany would not have cared a tinker's dam whether this country was for them or against them, if we had been divided. Let me ask you why it was during that great crisis that when President Wilson spoke his words they heard around the world and every

crowned head in Europe sat up and listened to what he had to say? It was because Abraham Lincoln lived, and it was because U. S. Grant, that silent man from Galena, lived. It was because two million boys in blue fought and bled and many of them died in the holy cause of freedom and good government. That is the reason.

Sometimes when I hear of these proposed new fangled propositions which seek to change our form of government, I feel afraid almost to push aside the curtain and look into the future of this great land of ours, but during the present war I took increased courage as I saw one hundred millions of people speaking every language under the sun, professing every religion beneath the sun, who, when the call came, took their places beside the strong right arm of President Wilson, determined if need be to sacrifice their lives for their country, crossed the sea in the darkest hour of that great war, and when they got over there, things did not look very bright. It was very discouraging. Russia had capitulated. Roumania and Servia had been crushed and our other allies were being driven back in defeat and disaster. Only omniscence could forecast all the portents that blazed in the angry sky of Europe at that time. Our boys got over there and in the battle line of the Marne, the second battle of the Marne, that battle line stood in the focus of the world's attention and the world was wondering if the next drive would carry the enemy into Paris? I was asked that question. Some of my good friends at Bloomington thought because I had been through the Civil War and had been Governor that I knew everything—I said I don't know, but tell me how many American soldiers are on that battle line of the Marne and I can tell you whether the enemy will ever get into Paris or not. They told me that there was about 250,000, and I said, "Then they will never take Paris until they walk over the dead bodies of two hundred and fifty thousand American soldiers," and they never did. (Applause.)

When the word was given, our boys like athletes hurled back the enemy in defeat and disaster, and when the glad tidings of victory was flashed under all the waves of the sea and spread westward across our prairies, you all remember the great rejoicing. Now, when I saw that I took increased courage for the future of this big country of ours, and to Abraham Lincoln, possibly more than to any other man, is credit due, and the American people and the world appreciate his great service. Go where you will, from Maine to California, from Lakes to the Gulf, and you will see in monuments and in other ways the love and the affection that is entertained by the American people for that great man. But friends, a greater and better monument is now building to the memory of our statesmen and heroes living and dead, greater and better than any of granite or marble; it belongs not to regiments or brigades, or army corps or political divisions, but to all beneath our flag who have wrought in the holy cause of freedom and good government. That monument is the progress, social, industrial and political of the great republic they founded and saved; about its shaft cluster the hopes and the aspirations of every living patriot, and under it in assured immortality sleep all our heroic dead. (Applause.)

THE PRESIDENT. This concludes our program for today. I am sure we have all derived inspiration both as citizens and as delegates to this Convention from the consideration of the life and services of Abraham Lincoln.

Mr. BRENHOLT (Madison). I move you that a vote of thanks be extended to the gentlemen who have participated in our exercises this morning, and that we now adjourn until next Tuesday morning at 10:00 o'clock, February the 17th.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention until Tuesday, February 17, A. D. 1920, at 10:00 o'clock a. m.

TUESDAY, FEBRUARY 17, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend Father Charles Gilmartin, of the Sacred Heart Church, East St. Louis.

THE PRESIDENT. The Journal of February 11, 1920, having been printed and placed on the desks of the delegates on Thursday, February 12, 1920, is now subject to correction. There being no corrections proposed, the Journal of February 11, 1920, will stand approved as printed, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions, and unfinished business, all without debate.

THE PRESIDENT. The President would announce that Delegate Gee, of Lawrence county, requested the President to present his excuse for non-attendance this week, his excuse being that he had matters set in court some time since that required his attention this week. Without objection the Journal will show that Delegate Gee will be excused from attendance this week, and it is ordered.

Mr. SMITH (JoDavies). I ask that Mr. Stahl (Stephenson), be excused on account of illness, and illness in his family.

(Leave granted.)

Mr. ROSENBERG (Cook). Mr. O'Brien (Cook), wishes to be excused from attendance on the Convention this week on account of illness.

(Leave granted.)

Mr. CORCORAN (Cook). I ask that Mr. Potts (Cook), be excused on account of illness. He is still ill.

(Leave granted.)

THE PRESIDENT. The President would further announce that Delegate Hull, of Cook county, is ill at his home in Chicago. Without objection the Journal will show that Mr. Hull is excused from attendance this week.

The President is also advised that Mr. Revell (Cook), is required to be absent this week on account of illness in his family. Without objection the record will show that Mr. Revell is excused for the week, and it is so ordered.

The President is also in receipt of a telegram from Delegate McEwen, of Cook county, saying that on account of illness in his family he requests to be excused, and without objection Delegate McEwen will be excused for the week.

Delegate McGuird (Randolph), also advises the President he is still ill at his home under the care of a physician who prohibits him from going out this week, and asks to have his excuse entered upon the Journal. Without objection the excuse will be entered.

Delegate Ireland, of Woodford county, also advises the President that on account of illness in his family it is impossible for him to be at Springfield this week. Without objection Delegate Ireland will be excused for the week.

Whereupon the Convention proceeded upon the order of general orders of the day.

THE PRESIDENT. On last Thursday, I think it was, the Convention passed a resolution setting aside today for the hearing in Committee of the Whole the propositions numbered 133 and 134, offered by Delegate Wolff, of Cook county, on the initiative and referendum.

The Convention will now resolve itself into the Committee of the Whole for the purpose of conducting a hearing upon these two proposals.

The President will designate Delegate Dove, of Shelby county, chairman of the Committee on Initiative, Referendum and Recall to act as chairman of the Committee of the Whole.

Whereupon the Convention resolved itself into the Committee of the Whole.

CHAIRMAN DOVE. If the committee will be in order we shall proceed at once to the discussion of the proposals Nos. 133 and 134 which have been heretofore referred to the Committee on Initiative, Referendum and Recall. May I say to the committee, however, that in all probability this will be a full day. The Initiative, Referendum and Gateway Amendment League have honored this Convention sitting as a Committee of the Whole by sending several of their officers and members to discuss the merits of these proposals. There are others also here who desired to be heard, and in order that they may each be given a courteous and full hearing it is requested for each of these speakers that they may be permitted to finish their prepared address, at the conclusion of which each one have signified their willingness to be interrogated along the lines of their discussion.

May I also ask the committee to refrain from in any means showing their approval or disapproval of any question that may be propounded to the various speakers. It seems to me that each of the speakers is entitled to a fair and courteous hearing.

The first speaker who will discuss the merits of these proposals is one well known to all of the committee; one who has filled the chief executive chair of this State, and who is now the president of the Initiative, Referendum and Gateway Amendment League. Ex-Governor Dunne will now speak to you. (Applause.)

GOVERNOR DUNNE. Mr. Chairman, and gentlemen of the Constitutional Convention: The chairman has wisely suggested that the best way to get next to a deliberative body is to get near them, and I step down in order to get a little nearer to you, physically at least. (Laughter.)

Your chairman was kind enough to extend to myself among others, a written invitation to appear before this body today for the purpose of presenting our views with relation to the proposition pending before this Convention with reference to incorporating in the proposed new Constitution what is known as the initiative and referendum. We appreciate the courtesy of that invitation, and are pleased—at least I can speak for myself—to accept that invitation.

Recognizing the fact that this is a very important deliberative body, engaged in the framing of a fundamental law, that will be binding in the future upon probably fifteen million people, and that your time is valuable, it occurred to me upon receipt of this invitation that the best way that I could show my appreciation of the invitation and economize on your time would be to prepare what I thought were the essential thoughts as they occurred to me to be presented to this Convention upon this subject, and with your kind permission I will read what I have prepared for your consideration.

At the general election held in the State of Illinois in November, 1919, there was submitted to the people under the Public Policy Act a provision instructing the delegates at the coming Constitutional Convention to incorporate in the new Constitution a provision for the I. and R. The proposition submitted to the people was opposed vehemently and vigorously by the Chicago Tribune, the Daily News, Chicago Post, and by most of the republican papers in the State of Illinois. The Herald-Examiner, American and Springfield Register were the only papers that I, of my own personal knowledge, know that supported the question. The proposition was also opposed by the Civic Federation and all the reactionary and capitalistic influence of the State. Notwithstanding this determined opposition, the people of Illinois adopted the provision, instructing the delegates to the Constitutional Convention to incorporate the I. and R. in the Constitution by about

46,000 votes. I have not verified the official return, but it is in that neighborhood.

This is not the first time that the people of the State of Illinois have expressed their views upon this question. In 1904 a somewhat similar provision was carried affirmatively by an overwhelming majority of the people of the State of Illinois. Again in 1910 a somewhat similar provision was carried overwhelmingly by the people of Illinois by popular vote. Again in 1912 both the progressive and democratic parties in their platforms advocated the passage of the I. and R. constitutional amendment, and, largely because I advocated at that election the passage of the same, I was elected Governor by a plurality of about 125,000. Every time that the question has been submitted to the people of the State of Illinois at elections, it has been carried overwhelmingly.

Why have the people so frequently in this State voted for the adoption of the I. and R.? The question can be easely answered: Because they have learned by experience that the legislatures selected by the people to enact laws for the people's benefit have at times failed to express the people's will in the enactment of legislation at Springfield. These legislatures have not only refused at times to pass laws demanded by the people, but have upon several occasions passed laws to which the people were bitterly opposed. The people have ascertained that at the State Capital in recent years a third house, not recognized by the laws or Constitution of the State, has exercised potent and malign influence in the matter of drafting legislation; that contaminating lobbies, financed by corporate influence, have infested legislative halls and the hotels where legislators live, and have influenced the legislators by sinister arguments delivered in closets and bathrooms, behind closed doors.

What is the initiative? Simply a method by which a bill persistently blocked in the legislature, but which is demanded by the people may, by means of a public petition, be brought to a direct vote at a regular State election and drafted into law, if the majority vote affirmatively.

What is the referendum? Simply a method by which any objectionable law passed by the legislature and signed by the Governor may, by petition of the people, be referred to the voters at the ensuing general election, and vetoed by them if the majority vote "No."

The initiative is a spur which can be applied for good legislation, and the referendum is a curb which can be applied to bad legislation.

The experience of the people of the State of Illinois, as well as that of 22 other States in the United States, has shown that such a spur and such a curb are essential to the people's welfare.

Up to and including the year 1915, 21 States of the United States had adopted, in one form or another, the I. and R.—I believe there is one state where they had the referendum alone—and since that time the conservative State of Massachusetts has incorporated it in its new Constitution.

The I. and R. by this time has ceased to become an experiment in legislation. It was first devised and put into practice in the progressive republic of Switzerland over a quarter a century ago. It has worked so well there that the attention of all progressive communities has been attracted to it as a method of enforcing the will of the people in framing legislation. State after state in the United States has adopted it and found it of inestimable value to the people and in not a single state that has adopted it has there been any repeal of the I. and R. law. Why is it opposed now in this State? Because selfish corporate and capitalistic interests do not want it in the Constitution or in the laws of the State, because it will interfere with legislation enacted for the benefit of these selfish and corporate interests and will interfere with the passage of laws demanded by the people as a whole.

A most determined fight was made in the legislature of 1913 against the framing of an I. and R. constitutional amendment, although over two-thirds of the members of the legislature were pledged by their party platforms to the passage of the same. In my inaugural message as Governor in 1913, I recommended the legislature to pass the I. and R. resolution. It was passed overwhelmingly by over a two-thirds vote in the Senate, and actually passed

the lower house by a two-thirds vote. When it was discovered, however, in the lower house, that two-thirds of the members had voted for the I. and R., one recalcitrant member, who had voted for the resolution, changed his vote and thus set at defiance the will of the people of the State of Illinois. The same determined fight, I presume, will be made in this Constitutional Convention. Capitalistic and corporate interests will use every possible means to prevent its incorporation in the new Constitution. Determined efforts will be made to repudiate the will of the people, as expressed in the ballot box, on the very day that the Constitutional Convention was voted.

If, despite the expression of the popular will at the polls in November, they shall succeed in their efforts, in my opinion, it will doom the new Constitution to defeat when that Constitution is submitted to the people. Flaunting and repudiating the repeatedly expressed will of the people will be punished by the people with emphatic condemnation at the ballot box.

What are the objections urged by the opponents of the I. and R.?

I have heard it said that it is new and revolutionary. It is comparatively new, but so is a republican form of government. A century and one-half ago there was hardly a republic in existence. A novelty is no objection to what works for good government. It is not revolutionary, because the people are the ultimate law making power in every state of the United States, and are, by their present constitutions, and always have been since the American Revolution, the makers of the fundamental laws or constitutions of these States. Constitutional Conventions do not create constitutions. They simply frame and submit constitutions to the people, who, themselves, approve or reject the same. The people, as a whole, are the creators of constitutions. Constitutions are their creatures.

I have heard it said that the I. and R. abolishes representative government and legislatures. It does not. Legislatures will still, under the I. and R., exist and have law making power. Every law passed by legislatures under the I. and R. will become a law if approved by the Governor, unless rejected by the people upon referendum. If the legislatures refuse to pass laws demanded by popular sentiment, the people, themselves, can and should frame such laws and pass them. This is simply supplemental to the legislative power of the legislatures and a reservation by the people of part of their inherent right to make laws for their own government.

I have heard it said that the I. and R. would establish the "tyranny of the majority." All republics and all States in the United States, even where there is no I. and R., recognize the right of the majority to make laws which are binding upon the minority. A great many people living in Chicago today recognize but deplore the situation with reference to certain customs of the people.

I have heard it said that the adoption of the I. and R. would result in "minority rule," for the reason that but few people would vote upon laws submitted by the I. and R. Experience in states that have adopted the I. and R. shows that this claim is false. Statistics show that over 75 per cent of the voters on an average have voted on all questions submitted to the people in states having the I. and R. for their rejection or approval.

I have heard it said that under the I. and R. there would be too many elections and the cost would bankrupt the State. There is no force in this objection. All questions submitted to the people under the I. and R. would be submitted to the people at general elections, and the only additional cost of submitting questions under the I. and R. would be the printing of the ballots, which would be infinitesimal.

I remember that my distinguished friend, in our little discussion, for the purpose of forcing his very able argument that it would result in confusion in a possibility of the people expressing intelligently their opinion, flourished a roll that he unrolled, showing the law that was printed in full upon the ballot. I think it was ten or fifteen feet long, wasn't it, Mr. DeYoung? Suffice it to say that that rule has not frightened the people of the State where they voted upon it, nor any state, and the concensus of opinion is that the people show, after full discussion for months and months, and becoming familiar with the law, as great, if not greater, intelligence

than the members of the legislature who, in the last forty-eight hours of the session, in its turmoil and excitement, passed three or four hundred laws, the contents of which most of them are not familiar with. The laws submitted to the people by the initiative and referendum are before the people for public discussion. Every paper in the State takes a crack at them, or supports them. The content and meaning of these laws are fully understood for months before they are submitted to the people, and they have voted intelligently upon them wherever they have voted.

I have heard it said that too many questions would be submitted to the people under the I. and R. which would tend to confuse the people and prevent them from voting intelligently thereon. Statistics show that this objection is also unsubstantial. Up to 1912 eleven states had adopted the I. and R. In that year 96 questions were submitted to the people under the I. and R. in these 11 states. Up to 1913, 16 states had adopted the I. and R. and, in the year 1914, 110 measures were submitted to the people under the I and R. in these 16 states. In 1916, 17 states had adopted the I. and R. and only 62 questions were submitted in all these 17 states. In 1918, 21 states had adopted the I. and R. and only 41 questions were submitted to the people under the I. and R., which conclusively proves that as soon as the people have become infested with law making power under the I. and R., and as soon as the legislatures of the State understand that they have that power, the tendency is, from year to year, to have fewer questions submitted to the people for approval or rejection than in the past. During this period, it must be remembered that thousands of laws were passed by the legislatures of these 21 states.

As proof that the people vote, and vote intelligently, on questions submitted to them for popular approval, let me cite the fact that at the November election, 1919, in Cook county, as reported by the press, 224,722 votes were cast upon the I. and R. question, while only 210,775 votes, in the aggregate, were cast for all the candidates for judge of the superior court at the same election, and only 215,746 votes were cast for all of the candidates for judge of the circuit court at the same election.

The initiative and referendum, as legislative reform, has commended itself to some of the most thoughtful minds of this country. When Theodore Roosevelt was President of the United States, the new State of Oklahoma adopted a Constitution incorporating the initiative and referendum and applied for admission to the Union. It was urged before President Roosevelt that with such a Constitution, Oklahoma should not be admitted as a state to the Union. He overruled the objection and recited in his proclamation——

"Whereas, it appears that the said Constitution and government of the proposed State of Oklahoma are Republican in form"——

and admitted the state to the Union by presidential proclamation.

Will you kindly hand me that paper. I want to quote also from President Roosevelt on another occasion. Again this great man who has gone to his reward, with the respect and love of all American citizens, of all parties, declared, as I read from the morning press:

"I believe in the initiative and referendum, which should be used not to destroy representative government but to correct it whenever it becomes misrepresentative. * * * In the great majority of cases it is far better that the work of legislation should be done by experts chosen to perform it. But when the men thus delegated fail to perform their duty, then it should be in the power of the people themselves to perform it."

President Wilson read an article on the subject of "The Issues of Reform," which was printed in the North American Review, May, 1910, and on May 5, 1911, delivered an address in Kansas City on the same subject. Here is what President Wilson had to say on the initiative and referendum, and, by the way, this utterance was made by the President in view of the fact that while president of Princeton University he was preaching another doctrine to the students, but came to recognize this situation, and declared as follows in this article:

"We have so complicated our machinery of government, we have made it so difficult, so full of ambushes and hiding-places, so indirect, that instead of having true representative government we have a great inextricable jungle of organization intervening between the people and the processes of their government; so that by stages without intending it, without being aware of it, we have lost the purity and directness of representative government. What we must devote ourselves to now is, not to upsetting our institutions, but to restoring them.

"Among the remedies proposed in recent years have been the initiative and referendum in the field of legislation and the recall in the field of administration. These measures are supposed to be characteristic of the most radical programmes, and they are supposed to be meant to change the very character of our government. They have no such purpose. Their intention is to restore, not to destroy, representative government."

I spent four years as Governor, at the seat of the law making power of the State of Illinois, and I know from personal experience that President Wilson's statement——

"We have a great inextricable jungle of organization intervening between the people and the processes of their government; so that by states without intending it, without being aware of it, we have lost the purity and directness of representative government."

We attempted here in Springfield during my term—as Speaker Shanahan will bear me out—we attempted by resolutions in the legislature to drive from the anterooms and corridors of the State House the insidious lobbies that were mutilating and sometimes defiling the people's will, just as Prseident Wilson attempted to drive them from the anterooms and corridors of the National Capital. In both cases it simply resulted in driving the lobbyists into the hotels and apartments, where members of the legislature dwelt during sessions of the legislature.

The only way, gentlemen, in my humble opinion, to drive away the insidious and malignant lobby which has obstructed and defiled legislation in the past is to adopt the initiative and referendum. With such a measure in the Constitution and in the laws of the State, the work of the lobbyists is futile. The lobbyists won't corrupt unless "the goods can be delivered," and the "goods cannot be delivered" by corrupt or incompetent legislatures when the initiative and referendum is incorporated into the fundamental law and legislation of the State, because it being in the power of the people to kill bad legislation, it would be idle for the lobby to endeavor to bring about bad legislation, and it being within the power of the people to enact such laws as they demand, the lobbyist won't interfere with the legislator when the legislator is trying to carry out the interests of the people he represents and enact into law such legislation as the people demand.

These are views, my friends, that I desire to present to this distinguished body for their consideration in passing upon the proposal to insert the initiative and referendum into the fundamental law of this State. I wish to thank your chairman and thank this body for the care and attention with which they have listened to any humble suggestions I have to make. I will now give way to others who may want to talk along the same lines. (Applause.)

Mr. TRAUTMANN (St. Clair). Mr. Chairman, I would like to ask the Governor a question. Governor, have you read Proposal 134?

GOVERNOR DUNNE. No.

Mr. TRAUTMANN (St. Clair). That proposal is for a separate submission of the provisions of the initiative and referendum. I would like to ask this question: Is it your idea that the initiative and referendum should be incorporated in the new Constitution, and should then be submitted as a separate proposition, so in case the new Constitution fails of approval, it will become a part of the present Constitution?

GOVERNOR DUNNE. Yes. I advocated, you know, very vigorously, as far as lay within my power when I was Governor, the passage of such a resolution.

Mr. TRAUTMANN (St. Clair). Yes, in 1913.

GOVERNOR DUNNE. And I think, if you incorporated the initiative and referendum in the body of your new Constitution, and the same by a separate provision, that it will probably attract better support to your full Constitution.

Mr. TRAUTMANN (St. Clair). It might do that, and, at the same time, it might have the other effect: That the supporters of the initiative and referendum would vote for that alone, hoping it would become a part of the present Constitution, and at the same time vote against the approval of the new document.

GOVERNOR DUNNE. I think if what they regarded as essential to protect public interests is included both in the Constitution and in a separate provision, they would be inclined to vote for the new Constitution.

Mr. CORLETT (Will). If the initiative as proposed should become a part of the new Constitution, or, by amendment, a part of the present Constitution, would it not be just as easy to amend or repeal the Constitution at any regular, general, or special election as it would to amend, repeal or enact any statute, and if the Constitution is to have no more stability than a statute, why not abolish the Constitution entirely and depend upon a statute for the basic law of the State?

GOVERNOR DUNNE. Because I believe that the people of the State of Illinois always believe that it is essential to establish a bill of rights and their fundamental security in the organic law, and then to give power beyond that in the legislature. I don't think the people would favor the abolition of the Constitution, such as they have in Great Britain and as I am informed they have in Switzerland. I think the people are wedded to a fundamental law which they regard as their right.

Mr. CORLETT (Will). Under the proposal for the initiative as introduced here, does the Constitution have any more stability than a statute?

GOVERNOR DUNNE. I couldn't answer that without carefully reading the whole thing. My attention has never been called to it before.

Mr. CORLETT (Will). The vote for the question of public policy submitting the initiative and referendum was 257,640 in the State of Illinois?

GOVERNOR DUNNE. That is the total vote?

Mr. CORLETT (Will). No, the total vote voted. Or about 11 per cent of the total presidential vote in 1916, which was 2,192,734. Now, is it your contention that this vote is binding upon the other 89 per cent of the voters of the State and the delegates of this Convention, or is to be regarded only as an expression of sentiment favorable to the initiative and referendum by approximately 11 per cent of the voters of Illinois?

GOVERNOR DUNNE. I think that all those who studied the question, and have expressed their views upon the matter, went to the polls and voted, and that it is a very fair expression of the sentiment of the people of the State of Illinois upon the question; that the same rule should apply as applies to the election of Governor or any other office; that those who vote for Governor are entitled to have their votes recorded, and those that stay at home are not entitled to have their vote recorded.

Mr. CORLETT (Will). Don't you make any distinction between a straw vote on a proposition and a vote which is understood to be binding?

GOVERNOR DUNNE. I regard no vote that is held in accordance with law, and with all the safeguards thrown around it by the statutes of the State at the polls, after proper notice, as a straw vote, but a vote of the people expressly upon the issue that is presented to them by the people who desire to be heard thereon.

Mr. CORLETT (Will). And do you regard that binding upon those who do not participate in it, and upon the delegates of this Convention?

GOVERNOR DUNNE. I say that people elected to public office by a minority of the whole electorate, but by a plurality of those who vote, have been governing this country for years, and will continue to govern it, and that the same principle ought to apply upon the vote upon such a question.

Mr. CORLETT (Will). But you have not yet answered my question.

GOVERNOR DUNNE. I think I have.

Mr. CORLETT (Will). In the proposal here for the referendum, I note that certain acts of the legislature are excepted from the operation of the referendum. Under the question submitted at the last election, 50,000 voters, or approximately 2 per cent of the total vote of this State, were authorized and impowered to suspend from operation any act or acts of the legislature, which means that they could suspend all appropriations for our charitable and educational institutions, and, in fact, appropriations for the maintenance of the State government itself, utterly paralyzing the arms of government. Under the proposal here I note there are certain acts excepted. If this vote taken last fall is binding upon this Convention, by what authority can this Convention except from the operation of the referendum the acts specified?

GOVERNOR DUNNE. No one has ever contended that it is legally binding upon this Convention. The Public Policy Act does not make it binding, as you know. It is simply a method devised by the legislature for permitting the public to express its sentiments on public questions, and is not legally binding upon any man in the legislature. That question arose when the case was argued before the Supreme Court.

Mr. COOLLEY (Vermilion). Mr. Chairman, and Governor: I wish to ask you in regard to the opposition which this measure received and the support. You spoke of the large newspapers?

GOVERNOR DUNNE. Yes.

Mr. COOLLEY (Vermilion). Is it not a fact that the vote would indicate that the rural districts opposed this more than other districts?

GOVERNOR DUNNE. It indicates to me that there was no newspaper discussion that reached the electorate down the State, in view of the fact that there were very few, if any, newspapers that discussed favorably the initiative and referendum. I think it was a one sided discussion for most of the people down the State.

Mr. COOLLEY (Vermilion). Did you or did you not give the approximate plurality that this measure received?

GOVERNOR DUNNE. I understand it is about 46,000. I have not looked up the official figures, but it is in the neighborhood of that; I have been told somewhere between 46,000 and 50,000.

Mr. COOLLEY (Vermilion). Might it not be that public opinion in the rural districts was formed in view of the revenue measures?

GOVERNOR DUNNE. No, I don't think so. I think they only heard one side discussed.

Mr. COOLLEY (Vermilion). You don't believe that the question of taxation had anything to do with it?

GOVERNOR DUNNE. I don't think so.

Mr. COOLLEY (Vermilion). You will not consider that I am in any way personal?

GOVERNOR DUNNE. Not at all, Mr. Cooley.

Mr. COOLLEY (Vermilion). It is information that I want. Would you mind telling me whether or not that might lead into a single tax question ultimately?

GOVERNOR DUNNE. I don't think it has any connection directly with the single tax.

Mr. COOLLEY (Vermilion). My question is, could it have; might it not ultimately?

GOVERNOR DUNNE. The majority of the people could pass any kind of a law they wanted. I don't know what the majority of the people think upon the single tax.

Mr. COOLLEY (Vermilion). The rural districts realize that a full vote is hard to get in the country.

GOVERNOR DUNNE. In bad weather.

Mr. COOLLEY (Vermilion). Any weather. It is worse in good weather, because they work when the weather is fine. (Laughter.) Is it not a fact that you have yourself advocated the single tax theory, Governor?

GOVERNOR DUNNE. No, sir. I never advocated the single tax in my life, although I am very much interested in the problem, and don't know

what I may ultimately do after a full investigation, but so far I have not voted for the single tax nor advocated the single tax.

Mr. COOLLEY (Vermilion). I wondered whether or not that might influence the vote in the rural districts.

GOVERNOR DUNNE. I couldn't say.

Mr. COOLLEY (Vermilion). Isn't it a fact that all the farm papers and agricultural papers, all over the State, voted for this initiative and referendum—or were against it, rather?

GOVERNOR DUNNE. I can't say. I have lived in Chicago all the time, and I don't get the country papers up there.

Mr. COOLLEY (Vermilion). As a matter of fact, most of the agricultural journals were against it, and against these questions that were submitted last November?

GOVERNOR DUNNE. Well, I didn't know that. That may be true. It confirms my impression that there was a one sided argument down the State.

Mr. GALE (Jefferson). I have two or three questions I would like to ask the Governor, if I may. How does the percentage of 100,000 votes for the initiative and 50,000 for the referendum, as proposed in Proposal 133, compare with the percentages required in other states?

GOVERNOR DUNNE. I think they are less than in other states. The reason why I thought that definite number should be selected—and I think that was the view of other gentlemen who were consulted at the time—was that it is open to dispute what number of signatures would be a certain percentage, and that, therefore, it was better to determine, instead of by percentage, by concrete figures, what number of names should be required for a petition in either event.

Mr. GALE (Jefferson). Do you think, Governor, that those percentages are as high as they ought to be; that is to say, if you are figuring these would apply when women have the full right of suffrage, which we think now they are going to have within a very short time. A hundred thousand will be less than 3 per cent of the total vote of Illinois; 50,000 about one and a half per cent. Do you think those are percentages which should be permitted if the I. and R. is to become a part of our Constitution?

GOVERNOR DUNNE. I think so, yes, being an ardent believer in the right of the people to say that the laws that they want should be placed upon the statute books. I think their opportunities for direct legislation should be made reasonably easy. That is my judgment. When I was mayor of Chicago I remember once that it became necessary to get up a referendum under the Public Policy Act, inside of ten days in an emergency, and I know the extreme difficulty that it imposed upon people that had no money, resources or anything else, but simply were interested, intensely interested, in public issues, to get a large number of signatures in a short time. I think it required 130,000 at that time, and it was almost impossible to get them. Therefore, I am inclined to believe that both 50,000 for the veto of the referendum and 100,000 for the initiative is proper and just to enable the people to veto bad laws and pass such laws as they want.

Mr. GALE (Jefferson). Then Governor, in this proposal, which gives the right as to the Constitution, as well as to a statute, would not this enable an extraordinarily small per cent to propose an amendment even to the bill of rights?

GOVERNOR DUNNE. No, I don't think so.

Mr. GALE (Jefferson). You don't think there would be any danger of such things under this I. and R.?

GOVERNOR DUNNE. I don't think so. I don't think you will ever have such an instance in the history of this State or any other state—the people asking for the release of the securities given to them by the bill of rights.

Mr. GALE (Jefferson). Now, nevertheless, the right would be given under this proposal if they wanted it?

GOVERNOR DUNNE. Yes, they can amend the Constitution.

Mr. GALE (Jefferson). Now, Governor, I want to ask whether you think there is anything needed in the Constitution of Illinois except the I. and R.?

GOVERNOR DUNNE. The present Constitution?

Mr. GALE (Jefferson). Are there any other reforms?

GOVERNOR DUNNE. Yes. The most important is the amendment of the amending clause. That Constitution is not such a bad Constitution by any means, and if it had had a reasonable amending clause when it was enacted, I believe that any of the needs of the community as developed by the march of modern progress would have been contained under the present Constitution.

Mr. GALE (Jefferson). Well, Governor, this would be an amendment to the amending clause, wouldn't it?

GOVERNOR DUNNE. Well, that question, I believe, was asked by Mr. Corlett. I think you are right about it. I think it would apply to an amendment to the Constitution as well as anything else. Without a careful analysis, I think you are right.

Mr. GALE (Jefferson). Well, then, do you think that we need any other reform in the Constitution itself?

GOVERNOR DUNNE. Well, I think you——

Mr. GALE (Jefferson). Wait just a minute, Governor. The reason I ask is for this reason: They come here from Chicago advocating home rule before us.

GOVERNOR DUNNE. Yes.

Mr. GALE (Jefferson). They come here from the various cities in the State advocating the right to own their own utilities, which they call home rule, but which differs somewhat from the home rule wanted by Chicago; they advocate a change in our revenue law—and I might say, Governor, that I think the revenue law was the real reason for the affirmative vote in favor of a Constitutional Convention in the rural districts of Illinois—so there are a number of things which we are urged to put into this new Constitution; but I wanted to ask you, Governor, in view of that fact, if you really think that the I. and R. are the only things that we ought to change in the Constitution?

GOVERNOR DUNNE. By no means.

Mr. GALE (Jefferson). Well, then, Governor, if we were to make a first-class Constitution on other things, and leave out the I. and R., did I understand you to say that you thought that would result in the defeat of the Constitution which we would propose?

GOVERNOR DUNNE. That is my humble judgment.

Mr. GALE (Jefferson). Then, Governor, if that is the attitude of the I. and R. advocates, might that not just as well be the attitude of the advocates of other proposals which they think is needed in the State of Illinois?

GOVERNOR DUNNE. No, I don't think so, because the people have spoken so frequently at the ballot box in reference to the I. and R. on that question that they would feel, I think, much more keenly on that than on anything else.

Mr. GALE (Jefferson). According to this morning's Herald-Examiner there was a meeting yesterday at the Morrison Hotel of the Gateway Amendment League, and at that meeting—by the way, Governor, I am right about that that there was such a meeting?

GOVERNOR DUNNE. I don't know. I was not there.

Mr. GALE (Jefferson). There is no date on this, but at a meeting of the Morrison Hotel of the Gateway Amendment League Duncan McDonald, President of the State Federation of Labor, is quoted as saying:

"Organized labor—and I speak for 250,000 men and women in Illinois—is through begging from Illinois legislatures. We have been turned down in the securing of practically every right for which we have asked. We are marking time. If this last plea fails before the Constitutional Convention, I can no longer be responsible for any action that labor may take."

Now, Governor, you are the president of the Gateway Amendment League?

GOVERNOR DUNNE. Yes.

Mr. GALE (Jefferson). Is that the attitude which the Gateway Amendment League takes toward law in Illinois?

GOVERNOR DUNNE. The Gateway Amendment League, so far as I know, has taken no position whatever upon that. I was not at any meeting of the Gateway Amendment League yesterday, and I don't know what Mr. McDonald said.

Mr. GALE (Jefferson). I see. We are not to take that, then, as being the attitude of the I. and R. league, are we?

GOVERNOR DUNNE. No, you are not.

Mr. GALE (Jefferson). I ask that question, Governor, because, as a member of the Constitutional Convention—and I believe others would be like me—I fully resent that sort of an attempt to influence our action.

GOVERNOR DUNNE. That is a matter you can discuss with Mr. McDonald.

Mr. GALE (Jefferson). All right. I merely wished to explain my question, Governor. I want to ask in regard to these votes for the initiative and referendum which it has had from time to time in the State of Illinois, isn't it true, Governor, that the vote in favor of the I. and R. has been less, the percentage of votes has been less, at every election since the first one?

GOVERNOR DUNNE. Yes, because the opposition through the newspapers has got more determined and more bitter.

Mr. GALE (Jefferson). Don't you think that that represents any real change in the sentiment of the people?

GOVERNOR DUNNE. I do not.

Mr. GALE (Jefferson). Now, Governor, there is one thing that out in the country affected this vote for the I. and R., and affected it very seriously, and that was the fear on the part of the voters down State that the I. and R. is merely the advance wedge of the so-called single tax interests.

GOVERNOR DUNNE. Yes.

Mr. GALE (Jefferson). And in view of that, Governor, I want to ask you—as prefacing my question, I noticed last fall before our election, on Monday before the election, page advertisements in the newspapers, with which you are familiar, something like this (exhibiting advertisement), not all the same, but they had other advertisements of that kind—who paid for those advertisements?

GOVERNOR DUNNE. I could not tell you, I know I did not.

Mr. GALE (Knox). Do you know whether they were paid out of the so-called Fells fund?

GOVERNOR DUNNE. I could not tell you.

Mr. GALE (Knox). Do you know how much was contributed to the Initiative, Referendum and Gateway Amendment League by the so-called Hearst newspapers, by Mr. Hearst himself or by his representatives, Mr. Keene or Mr. Brisbane?

GOVERNOR DUNNE. I could not tell you, I handled no funds whatever.

Mr. GALE (Knox). Who did handle the funds in that league?

GOVERNOR DUNNE. I could not tell you.

Mr. GALE (Knox). Is it not true of you, Governor, that you have not studied the single tax sufficiently to state now whether or not you are in favor of it, and is it not true also that most representatives of the initiative and referendum are avowedly single taxers?

GOVERNOR DUNNE. I do not think so.

Mr. GALE (Knox). In the Fells Fund report of the conference of 1910 occurs this quotation, this statement, which is quoted in that report by Mr. U'Ren—he is the father of the I. and R. in this country.

GOVERNOR DUNNE. I think he framed the original law in Oregon and Washington.

Mr. GALE (Knox). "We have cleared the way for a straight single tax fight in Oregon. All the work we have done for direct legislation has been done with the single tax in view, but we have not fostered the single tax because that was not the question before the house."

In that same conference C. H. Mann of New Jersey said: "The man who wishes to build a tower begins by digging a hole in the ground. Digging a hole does not look much like building a tower, but that hole is necessary so as to have a firm foundation for the tower. Just so when we prepare the way for the single tax by working for and getting the initiative and referendum."

Now, I want to ask you, Governor, whether there is, in view of such a statement, is there not reasonable grounds for the fear of the I. and R. which the farmers of Illinois unquestionably have gotten?

GOVERNOR DUNNE. I don't know Mr. U'Ren, or Mr. Mann. I do not know whether those were his utterances or not; I never heard the single tax injected in the I. and R. at any conference at which I was present.

Mr. GALE (Knox). Are not you a contributor to the Fels fund yourself?

GOVERNOR DUNNE. No, sir.

Mr. GALE (Knox). They publish what they purport to be a list of the contributors and they gave the name of E. F. Dunne of Chicago?

GOVERNOR DUNNE. That is my name.

Mr. GALE (Knox). I wondered if their list is as correct in other things as it is incorrect in this?

GOVERNOR DUNNE. I have never contributed a dollar to the Fels fund. I have been a subscriber to the "Public" published by Mr. Post, originally of Chicago and now of Washington. I think I contributed five or ten dollars a year to the extension fund of the "Public" but I do not know anything about the Fels fund and I never contributed a dollar to it.

Mr. GALE (Knox). You do not think it is possible for the people to get legislation which they really need through their legislatures by refusing to re-elect them when they refuse to pass the laws they want?

GOVERNOR DUNNE. I think the experience in the past justifies the statements I have made.

Mr. GALE (Knox). Don't you think the I. and R. is an attack on representative government?

GOVERNOR DUNNE. No, I think it is a supplement to representative government when representative government at times is not quite responsive to the popular sentiment.

Mr. GALE (Knox). Doesn't it give a chance for the public, under the pressure of a wave, if you please, of either passion or prejudice, to pass the laws and to prevent the going into effect of laws which within a short time they would not want at all?

GOVERNOR DUNNE. No, I do not think there is any danger in that. That danger has not developed in the other places where the initiative and referendum has been in force, and it is not more likely to develop in a great powerful and conservative State like this than in the newer states out west, and in Ohio, Massachusetts and other states.

Mr. TAFF (Fulton). Assuming that the I. and R. as proposed in 133 became a part of our Constitution, and 15 or 20 years from now Cook county had a majority of votes in the State. Could not then Cook county absolutely control every piece of legislation in the State of Illinois?

GOVERNOR DUNNE. I apprehend that if Cook county increased in population, and there would be a majority of the voters of the State, up to that point, then they would probably control the legislature as well as by direct vote, if the representation they were given in the legislature is commensurate with their population.

Mr. TAFF (Fulton). And would they not then under this proposed I. and R. absolutely control every piece of legislation in the State of Illinois?

GOVERNOR DUNNE. The same as they do in the election of a Governor or Secretary of State. It has always been fundamental in this State and every other state that the majority rules, and the voters at the polls determine who they want for Governor, and what kind of laws they want.

Mr. KERRICK (McLean). Governor Dunne, previous to the election of delegates to this Convention, there was sent to each of the candidates was

there not, three questions which were voted upon at the election with reference to what is under discussion today?

GOVERNOR DUNNE. I think there was, propositions were submitted to the candidates.

Mr. KERRICK (McLean). You would know whether there were or not?

GOVERNOR DUNNE. No, because I was out of town.

Mr. KERRICK (McLean). Were you not a member of the organization that was conducting the campaign for the adopting of those questions?

GOVERNOR DUNNE. It was mid-summer, hot weather, and I was out of town a great deal.

Mr. KERRICK (McLean). You made at one time in the Chicago Tribune I cannot name the date of the publication, a statement that the author of those questions was Dr. Herbert F. Bigelow, did you not, that he prepared every word of the questions?

GOVERNOR DUNNE. Dr. Bigelow and I and some others cooperated in the framing of that.

Mr. KERRICK (McLean). That is not an answer to my question. Was there not published in a Chicago paper as a direct statement coming from you that Dr. Herbert F. Bigelow, who was the chairman or president of the Constitutional Convention of Ohio held in 1912, was the author of every word contained in those three questions. Was that not published as your statement in the Chicago Tribune at that time?

GOVERNOR DUNNE. I could not say unless you could show me the paper.

Mr. KERRICK (McLean). I do not happen to have it.

GOVERNOR DUNNE. All I will say is that Dr. Bigelow and I cooperated in the framing of these questions, and Dr. Bigelow is here.

Mr. KERRICK (McLean). Were they not the production of Dr. Bigelow himself?

GOVERNOR DUNNE. No, sir, they were the production of a conference in which myself, Dr. Bigelow and some others participated.

Mr. KERRICK (McLean). Was there or not stated and proposed by Dr. Bigelow a fourth question, which was to the effect that in cases of trials for contempt of court, because of disobedience to injunction of a court that trial should be by jury?

GOVERNOR DUNNE. I do not recall there was any such question discussed.

Mr. KERRICK (McLean). However, if it was publicly stated in the Chicago Tribune some time in October, I will say of last year, as coming from you that Dr. Bigelow was the author of these questions, you made no public denial of that statement.

GOVERNOR DUNNE. I do not know what was in the paper.

Mr. KERRICK (McLean). You made no public denial is my question.

GOVERNOR DUNNE. I do not know what was in the paper first, secondly, I do not know that what was in the paper was correct. Newspapers make mistakes as do other agencies.

Mr. KERRICK (McLean). If it turned out to be a fact in such a publication as I have described, or appeared in the Chicago Tribune a few weeks or a week or two perhaps before the election of delegates to this Convention, if there was a statement to the effect, as coming from you, with considerably enlarged headlines that Dr. Bigelow was the father of all these questions and in that connection you spoke of his having been president of the Constitutional Convention, you made no public denial, that is a simple question.

GOVERNOR DUNNE. I can only answer you in this way: I do not know what was in the paper in the first place, and I do not know whether what was in the paper was correct.

Mr. KERRICK (McLean). I will ask you this question: Do you know whether it is a fact that six months or thereabouts previous to the publication of that production or public attention being called to these questions, Dr. Bigelow was canvassing this State in favor of propositions to that effect?

GOVERNOR DUNNE. I do not know anything about that.

Mr. KERRICK (McLean). Do you know whether or not it is true that Dr. Bigelow at present and for many years past has been a paid lecturer and advocate of the single tax proposition?

GOVERNOR DUNNE. I do not.

Mr. KERRICK (McLean). Have you ever heard of it?

GOVERNOR DUNNE. No.

Mr. KERRICK (McLean). Do you know whether he is in favor of single tax?

GOVERNOR DUNNE. I do not know that, I do not know as I have ever discussed that question with him.

Mr. KERRICK (McLean). You did not consider it of sufficient consequence in connection with this measure to be inquired into?

GOVERNOR DUNNE. I did not. I do not regard a man who holds single tax views as a criminal.

Mr. KERRICK (McLean). I have not asked that question, and I do subscribe to that proposition.

GOVERNOR DUNNE. I do not ask every man I meet whether he is a single taxer or not. Dr. Bigelow is here and can answer you.

Mr. KERRICK (McLean). I am trying to learn what I can from you.

Mr. WALL (Pulaski). From your theory of the initiative and referendum, it carries with it the right entirely at all times for the majority to rule?

GOVERNOR DUNNE. Yes.

Mr. WALL (Pulaski). Now, on the proposal 133, would there be any reason why a petition of 100,000 voters might not submit a so-called question of public policy?

GOVERNOR DUNNE. I do not understand the question, Judge.

Mr. WALL (Pulaski). Might or might not there be under sections 1 and 2 in proposal 133, as submitted to this Convention, a proposition could be submitted on a petition of say 100,000 people, legal voters of the State, to change descent and distribution of property, or any other kindred question relating to distribution of property after death, whereby if a man was worth $10,000, $9,000 worth of that property should go to certain institutions or charities, and the other thousand to his children or to his next of kin, or limiting his right to dispose of it by will or in any other manner or changing the statute of descent and distribution?

Mr. MAYER (Cook). Add in your question, abolishing the right of inheritance.

Mr. WALL (Pulaski). Yes, I will add that. Thank you. Well, do you think, Governor, in the present state of unrest in this State there would be any difficulty in getting 100,000 signatures to a petition of that kind?

GOVERNOR DUNNE. Yes, I think the people of this community are not crazy. Most of the people I think, a large percentage of the people of this State are property owners, and a very large majority.

Mr. WALL (Pulaski). That is true, but many of the present property owners, a great many of them might frame it.

GOVERNOR DUNNE. No such law would have the slightest prospect of passage.

Mr. WALL (Pulaski). Would it not in fact entail upon the election authorities the expense of printing it upon the ballot?

GOVERNOR DUNNE. The expense of printing the ballots is small.

Mr. MAYER (Cook). Could the Governor call a special election?

GOVERNOR DUNNE. I think it does provide for that.

Mr. MAYER (Cook). "Submit at general or special election."

GOVERNOR DUNNE. There is no special election as I understand it for the submission of these questions?

Mr. MAYER (Cook). This can be submitted at any regular, general or special election?

Mr. WALL (Pulaski). From representations made here I suppose you are not in favor of limiting Chicago's representation in the legislature?

GOVERNOR DUNNE. I know of no reason why it should be so.

Mr. WALL (Pulaski). You think then the limiting of the representation of Baltimore, Philadelphia and New York is a mistake in those cities?

GOVERNOR DUNNE. I think it is unfair and unjust to deprive people of proportionate representation in any legislative body.

Mr. WALL (Pulaski). According to population, and you believe, Governor, if Chicago should have a majority of one in the State that it is entitled to a majority of the lower house and upper house of the General Assembly and thereby control the entire State of Illinois, the other 101 counties?

GOVERNOR DUNNE. Yes, as I believe if the down State counties had a majority of one they would have a right to control. I think what is sauce for the goose is sauce for the gander, and any representation that is not proportionate to the population is unfair.

Mr. DEYOUNG (Cook). The initiative as proposed in proposal 133 makes no distinction between constitutional amendments and any statutory enactments, does it, Governor?

GOVERNOR DUNNE. This was submitted to me very hurriedly before I left Chicago. Let me get the question, I would prefer to answer it and make analysis.

Mr. DEYOUNG (Cook). In any event the question as submitted makes no distinction whatever between constitutional questions and statutory enactments?

GOVERNOR DUNNE. I think you are right.

Mr. DEYOUNG (Cook). You make a statement that twenty-two states has the initiative?

GOVERNOR DUNNE. I think twenty states have initiative and referendum and one has referendum.

Mr. DEYOUNG (Cook). Twenty states has initiative. How many of those states has the initiative with reference to constitutional amendments?

GOVERNOR DUNNE. Most I think.

Mr. DEYOUNG (Cook). Isn't it a fact that South Dakota, Utah, Montana, Maine, New Mexico, Idaho, Washington and Maryland exclude altogether from the operation of the initiative proposed amendments to the Constitution?

GOVERNOR DUNNE. I could not say accurately without going to the record. They have the initiative and referendum in some form or other.

Mr. DEYOUNG (Cook). I have reference now to constitutional amendments, Governor. Isn't it a fact that the states I have named do not permit that? Eight out of the possible twenty?

GOVERNOR DUNNE. I do not think the number is that large.

Mr. DEYOUNG (Cook). I have it from the record, Governor. Now, the last State to which you refer and which you characterize as conservative and patriotic, the State of Massachusetts, adopted the initiative as late as 1918. You would not for a moment, Governor, compare the initiative as adopted in Massachusetts with the proposed public policy question in Proposal 133 introduced in this body?

GOVERNOR DUNNE. I think it is much more limited.

Mr. DEYOUNG (Cook). It is much more conservative, if you will. Isn't it a fact in Massachusetts, reading from the Constitution itself, that among the limitations imposed upon the initiative with reference to proposed constitutional amendments excludes matters as follows: "No measure that relates to religion, religious practices or religious institutions; or to the appointments, qualifications, tenure, removal, recall or compensation of judges; or to the reversal of a judicial decision; or to the powers, creation or abolition of courts; or the operation of which is restrictive to a particular town, city or other political division or to particular districts or localities of the commonwealth; or that makes a specific appropriation of money from the treasury of the commonwealth, shall be proposed by an initiative petition; but if a law approved by the people is not repealed the general court shall raise by taxation or otherwise and shall appropriate such money as may be necessary to carry such law into effect."

GOVERNOR DUNNE. I answered you before it is limited.

Mr. DEYOUNG (Cook). Now, Governor, isn't there a further limitation as follows: "No proposition inconsistent with any of the following rights of the individual, as at present declared in the declaration of rights shall be subject of an initiative or referendum petition: The right to receive compensation for private property appropriated to public use; the right of access to and protection in courts of justice; the right of trial by jury; protection from unreasonable search, unreasonable bail, and the law martial; freedom of the press; freedom of speech; freedom of elections; and the right of peaceable assembly."

GOVERNOR DUNNE. I have already answered you it is limited in Massachusetts.

Mr. DEYOUNG (Cook). If all these fundamental matters secured by the bill of rights, matters with reference to courts of justice, the administration of justice, practically all the governmental machinery exclude altogether from the operation of the initiative, would you say that it was fair to cite the case of Massachusetts as a precedent for the present proposal?

GOVERNOR DUNNE. As showing the growth of the initiative and referendum through the States. I said in some form or another it was adopted in these States, and that is correct.

Mr. DEYOUNG (Cook). Has the development in the State of Massachusetts, as one of the States that has initiative, has the development been in the direction of imposing limitations upon the exercise of the initiative?

GOVERNOR DUNNE. It is a very advanced step in Massachusetts where they never had anything like that before.

Mr. DEYOUNG (Cook). Would you say that the initiative in Massachusetts is an advanced step over the initiative as incorporated in the Constitutions of some of these other States?

GOVERNOR DUNNE. No.

Mr. DEYOUNG (Cook). In view of the light of that development, may I call your attention to Oklahoma? Is it not a fact with reference to constitutional questions in Oklahoma, there must be an initiating petition of at least 15 per cent of the electorate of the State?

GOVERNOR DUNNE. I am not familiar with that.

Mr. DEYOUNG (Cook). That is a matter of record. Is it not also true that in Oklahoma with reference to proposed constitutional amendments initiated by at least 15 per cent of the voters, it must receive a majority of all the voters voting at the election in order to change the Constitution?

GOVERNOR DUNNE. I am not sure.

Mr. DEYOUNG (Cook). Is it not also true that the initiative and the Oklahoma Constitution is later than in South Dakota and Oregon?

GOVERNOR DUNNE. I think so.

Mr. DEYOUNG (Cook). Doesn't it also exemplify the tendency of the newer States to make an initiative, if they adopt it at all, make it more conservative and impose upon it more limitations?

GOVERNOR DUNNE. The tendency is towards the initiative and referendum throughout the progressive States.

Mr. DEYOUNG (Cook). Even in spite of these checks and limitations that have been imposed?

GOVERNOR DUNNE. I still so maintain.

Mr. DEYOUNG (Cook). And even in spite of the fact that some of the States that have only a fraction of the population of Illinois, not with the varied interests that Illinois has, these States, some of them exclude constitutional amendments altogether from the operation of province of the initiative.

GOVERNOR DUNNE. The majority of the States that have adopted the initiative and referendum have.

Mr. DEYOUNG (Cook). Turning again to Massachusetts, which is the last expression of the initiative as you have said, they say there first of all that the initiating petition must be submitted to the Attorney General of the State.

GOVERNOR DUNNE. I am not sure about that.

Mr. DEYOUNG (Cook). That is right. The next step is to submit to the general court, the legislative body of that State, and then it must pass two successive sessions or at least be adopted by necessary vote before it can be submitted to the people of Massachusetts as a proposed amendment to the Constitution.

GOVERNOR DUNNE. I am not sure of that, but I will take your statement if you have it there.

Mr. DEYOUNG (Cook). I have it right here. Now, Governor, turning our attention for a brief moment to the statements that there has been such an insistent demand in Illinois for initiative and referendum: In 1902 when the question was first submitted, and then not this form of initiative but a conservative form of initiative, in that year, 1902, the vote received was 428,000 in the affirmative—I take that from the record.

GOVERNOR DUNNE. They were very large, practically no opposition to it.

Mr. DEYOUNG (Cook). As a matter of fact, Governor, in that year it did not receive a majority of the voters voting at the election, but substantially 49 per cent; the next time it was submitted under the public policy act in 1910 it received 447,000 votes in the affirmative, or a very slight increase over what it had received eight years before. On that occasion it received 47 per cent of the total voters voting at that election. In the year 1919 when the vote of Illinois so far as voting under the public policy question, public policy act is concerned had doubled, because women could vote, is it not a fact that the entire vote in the State was scarcely one-half, both for and against what it was in 1910?

GOVERNOR DUNNE. Yes.

Mr. DEYOUNG (Cook). In other words, with double the vote we find half as many voted for it, so in 1919 we find the demand for initiative and referendum when the voters had an opportunity to express themselves on it, and when there had been a vigorous campaign made on the question, the vote was reduced proportionately speaking to one-quarter what it had been in 1902 and 1910.

GOVERNOR DUNNE. Very easily explained; it was because there was no movement down the State by the friends of the initiative and referendum, and there was very emphatic and decided opposition manifested by the great newspapers on the other side and by people, and by organized assault upon it.

Mr. DEYOUNG (Cook). Isn't it a fact that the men in the City of Chicago who raise their voices against the public policy question, especially the initiative and referendum could be counted upon the fingers of a single hand, who took the platform against it?

GOVERNOR DUNNE. I think they were just as numerous as those who advocated it.

Mr. DEYOUNG (Cook). My impression is different. In the proposition number 133, and the question submitted in 1919, you have an initiative which is applicable to our bill of rights in the present Constitution just as it might be to a mere statutory matter. So with 100,000 voters who might be interested in a question, some of the most sacred rights which it has taken years and blood and treasure to secure might be swept out of the Constitution, that is possible as a legal question?

GOVERNOR DUNNE. It is possible to elect a Governor by a minority vote, when the people will not turn out to the polls, but in a question involving the bill of rights in this State or in any other State, the people will go to the polls and protect themselves.

Mr. DEYOUNG (Cook). Isn't it a fact, Governor, that the men who framed the Massachusetts amendment in 1919 knew that in a republic there must be time to reflect especially on constitutional matters?

GOVERNOR DUNNE. There is more time to reflect under the I. and R. than there is in the legislature after the bill is subjected to change.

Mr. MAYER (Cook). He is talking about constitutional amendments.

Mr. DEYOUNG (Cook). The legislature cannot abrogate the bill of rights.

GOVERNOR DUNNE. No.

Mr. DEYOUNG (Cook). As a legal proposition though I am correct, that the provisions of the bill of rights may be subjected to the initiative.

GOVERNOR DUNNE. Any minority, say 50,000 people, could petition for the abolition of the right of trial by jury; that is not any objection to this initiative and referendum for the reason that people won't sign such petitions and won't pass such laws.

Mr. DEYOUNG (Cook). Has not our experience, taken as a nation been often to the contrary? Sometimes in moments of excitement some of our sacred rights may be assaulted by a provision of this kind.

GOVERNOR DUNNE. They never will be assaulted successfully by popular vote.

Mr. DEYOUNG (Cook). Then why the limitations in the Massachusetts initiative and in these other States?

GOVERNOR DUNNE. Because the people believed they were proper and framed those, and the experiences of the other States was to the contrary. They did not require those limitations. It is a matter of judgment in each locality.

Mr. DEYOUNG (Cook). Do you know of a single State that has initiative where it approached the latitude which you propose with reference to the State of Illinois?

GOVERNOR DUNNE. I don't know that they have repealed them.

Mr. DEYOUNG (Cook). These States have limitations which number 133 does not incorporate.

GOVERNOR DUNNE. I know Massachusetts has.

Mr. DEYOUNG (Cook). And a number of these other States; in Oregon, where it has had its greatest development, and it is cited to us as a noble example, there they are proposing more and more checks upon it, because they say, some of the men who were the most aggressive supporters say today that there ought to be limitations imposed and in that State there must be at least eight per cent instead of four to change the Constitution.

GOVERNOR DUNNE. Assaults have been made and recommended in those States of Washington and Oregon but beaten at the polls.

Mr. DEYOUNG (Cook). Upon the initiative and referendum?

GOVERNOR DUNNE. Yes.

Mr. DEYOUNG (Cook). In Oregon they have always voted with great discrimination.

GOVERNOR DUNNE. Yes, that is my information.

Mr. DEYOUNG (Cook). In Oregon every question with reference to the courts has been defeated by the initiative.

GOVERNOR DUNNE. If the question is wrong it shows with what intelligence the people voted.

Mr. DEYOUNG (Cook). Even in statutory propositions giving the courts jurisdiction which all men will recognize as proper, that and anything with reference to the courts has uniformly been defeated in Oregon.

GOVERNOR DUNNE. I do not know.

Mr. DEYOUNG (Cook). It has as a matter of fact. Isn't it true that every other measure that has reference to the change of boundaries, however insignificant it might be, would probably pass?

GOVERNOR DUNNE. The people of Oregon seem to be satisfied with the Initiative and Referendum they have on their books.

Mr. DEYOUNG (Cook). Then we do not read the Oregon papers alike.

Mr. PINCUS (Cook). I do not want to be understood as being either for or against the Initiative and Referendum, I have not pledged myself either way and I am open to conviction, and therefore I am asking these questions: I understand you to say on a number of occasions that the reason for the down State going against the I. and R. is because of the newspapers advocating or taking a stand one way or the other?

GOVERNOR DUNNE. Advocating the defeat of it.

Mr. PINCUS (Cook). They were against the I. and R. and the reason Cook county was for it by 70 or 80,000 is because of the efforts of the Chicago American and the Chicago Examiner, mostly?

GOVERNOR DUNNE. There was a general discussion and the citizenship of Chicago heard both sides of the question.

Mr. PINCUS (Cook). You know, Governor, that the Chicago American and Examiner had daily articles in support of this proposition?

GOVERNOR DUNNE. Yes.

Mr. PINCUS (Cook). Where other newspapers, maybe one day out of the week had articles against this proposition?

GOVERNOR DUNNE. I think that the papers that opposed it were as vigorous in their way as the papers that advocated it.

Mr. PINCUS (Cook). I also assumed that your argument is this, that the minds of the people are moulded by the newspapers?

GOVERNOR DUNNE. By the information they get. No man can exercise his judgment without information upon any issue, and when he gets the information he exercises his judgment. If he only gets one side he is apt to be biased.

Mr. PINCUS (Cook). That is true through newspapers or magazines, and your argument in support of this proposition of the I. and R. is because of the corporate interests or the organizations, various organizations, that lobbies are sent down to the legislature by these corporations?

GOVERNOR DUNNE. Mainly.

Mr. PINCUS (Cook). And therefore that laws are passed. Now, then, you know as well as I do that the newspaper lives mainly because of the advertisements they receive. What is to prevent these organizations and corporations or lobbies, after we chase them out of this hall, instead of going into the hotel or homes of the legislators, going to the offices of these various newspapers and buying their opinions to meet their demands?

GOVERNOR DUNNE. Nothing that will prevent it except the conscience of the proprietor of the paper. It depends upon his kind of conscience whether that can be done or not.

Mr. PINCUS (Cook). You do not mean to say that the owner of the newspaper whose sole object is to make money has a greater conscience than the legislator who is elected by the people?

GOVERNOR DUNNE. I think the proprietor of the newspaper who is earning his living by the income of his paper is like the proprietor of any other business. There are men who will do business conscientiously, and men who will do business without conscience.

Mr. PINCUS (Cook). Do you mean to say the man who is elected by the people, his conscience is smaller than the one who is in business for the money proposition?

GOVERNOR DUNNE. No. I think the representatives of the people elected to public office, as a rule, in the great majority are men of conscience, but I think there are exceptions to the rule, and sometimes there are able exceptions to the rule.

Mr. PINCUS (Cook). In substance, this proposition would drive these lobbies and corporations outside of the legislature, but would give the newspapers the opportunity to get or to receive what our legislators have been receiving.

GOVERNOR DUNNE. No, no organized lobby or set of newspapers could do business of that character because neither could deliver the goods.

Mr. TRAUTMANN (St. Clair). I understand you to say, Governor, that if we had the initiative it would be possible for the people to get laws which have been denied them in the legislature?

GOVERNOR DUNNE. Yes.

Mr. TRAUTMANN (St. Clair). If we had the Initiative and Referendum, can you give us any law that the people would have today that was denied them by the legislature?

GOVERNOR DUNNE. I know it took several years to get a direct primary and it took several years to get the Australian ballot.

Mr. TRAUTMANN (St. Clair). Do you think they would retain the direct primary under the initiative?

GOVERNOR DUNNE. I don't know what they would do. You have as much information on that as I have.

Mr. TRAUTMANN (St. Clair). Do you think they would have obtained sooner the Public Utility Act, as we now have, if we had the initiative?

GOVERNOR DUNNE. If you had the Initiative and Referendum you would have such a utility act as you have now.

Mr. TRAUTMANN (St. Clair). You mean as we had?

GOVERNOR DUNNE. As was originally introduced in the legislature but was amended by the legislature.

Mr. TRAUTMANN (St. Clair). Did the original one contain separate home rule for Chicago?

GOVERNOR DUNNE. It did.

Mr. TRAUTMANN (St. Clair). Do you blame the so-called insidious lobbies for defeating that?

GOVERNOR DUNNE. I think that had something to do with it, yes.

Mr. TRAUTMANN (St. Clair). I will ask you now a direct personal question, which you do not need to answer unless you desire. How did it come after you say after the insidious lobby had something to do with defeating that, how did it happen that after the bill was passed that you signed it anyway?

GOVERNOR DUNNE. Because I represented a total of six and one-half million people, and not Chicago alone; because the people of the State of Illinois outside of the City of Chicago wanted it, because every party in their platforms had pledged themselves to the passage of the public utility act, the Democratic, Republican and Progressive parties, and I was faced with the alternative of refusing to give the people of the State of Illinois what was wanted, although Chicago was opposed to it.

Mr. TRAUTMANN (St. Clair). Do you think the Governor of a State should sign a bill that was influenced by insidious lobby?

GOVERNOR DUNNE. I think it was proper because I believed the people of all the State outside of Chicago demanded that act, and I signed it. If we had the initiative we would have a better Public Utility Act and home rule, I think so.

Mr. TODD (Peoria). You are here in full support of Proposal 133, I understand?

GOVERNOR DUNNE. Yes.

Mr. TODD (Peoria). You have quoted the words of the late President Theodore Roosevelt as favoring the Initiative and Referendum?

GOVERNOR DUNNE. I have quoted it from the paper this morning.

Mr. TODD (Peoria). Are you familiar with his words uttered by him in 1912 with reference to the Initiative and Referendum?

GOVERNOR DUNNE. No.

Mr. TODD (Peoria). I will read the words as I have them handed to me here, and if you placed these words I am about to quote alongside the statement in the paper this morning, I will ask you if you think the people would believe that Theodore Roosevelt favored the Initiative and Referendum:

"To use such measures as the Initiative, Referendum and Recall indiscriminately and promiscuously on all kinds of occasions would undoubtedly call disaster."

Do you think if those words were put opposite those in the paper today that the people would believe that Theodore Roosevelt was an exponent of Proposal 133?

GOVERNOR DUNNE. I think if the people were asked to consider the statement as contained in this paper they should consider any statement he made at any other time or place.

Mr. DIETZ (Rock Island). I know the old saying about those who ask questions are those called upon to answer them, but I will ask you this, do you not think that the rights of the people would be amply protected if the

initiative proposition would require a majority of all the legal voters of the State of Illinois to carry the proposal, and if not, what?

GOVERNOR DUNNE. I say we elect our public officers and we pass laws in the legislature by majorities, and I see no reason why a majority of those who want to open the question should not determine that result the same as determining who is to be President of the United States or Governor of Illinois.

Mr. DIETZ (Rock Island). Do you think the purpose of the Initiative and Referendum is to go over the heads of the representatives?

GOVERNOR DUNNE. No, it is to give power to the people to exercise a veto.

Mr. DIETZ (Rock Island). Now, do you think that less than a majority should go over the head of the representatives of all?

GOVERNOR DUNNE. I think the same rule ought to apply here as applied to the election of public officials and members of the legislature.

Mr. MAYER (Cook). I want to discuss with you, Judge, now as a lawyer two or three fundamental questions. I am here to learn. That sentence means everything that it implies. Under Article 2 of Proposal 133, before I put this question—do you know who drew this proposition 133 that is now under discussion?

GOVERNOR DUNNE. I think it was a lawyer in Chicago by the name of Case.

Mr. MAYER (Cook). You are not the author?

GOVERNOR DUNNE. No.

Mr. MAYER (Cook). Now, have you read it with care?

GOVERNOR DUNNE. Hurriedly before I left Chicago, and hurriedly here this morning.

Mr. MAYER (Cook). If things should appear in this proposal, which as a lawyer and citizen you regarded as inadvisable, if you were a member of this Convention, you would vote against those things, wouldn't you?

GOVERNOR DUNNE. I would keep in mind the vote of the people upon the propositions that they voted upon at the polls and I would consider that it was my function to vote in accordance with the wishes of my constituents.

Mr. MAYER (Cook). You would go a little further, wouldn't you, Judge, you would regard the vote as a vote in favor of the doctrine of the Initiative and Referendum?

GOVERNOR DUNNE. Yes.

Mr. MAYER (Cook). But if in its application you saw that the proposition contains things of doubtful wisdom you would exercise your own mentality, wouldn't you?

GOVERNOR DUNNE. I would endeavor to act in accordance with the wishes of my constituents, after they had expressed themselves upon it, unless it was violative of some conscience of mine, produced a qualm of conscience, and in that event I think I would resign and say I cannot do it.

Mr. MAYER (Cook). Wouldn't you say to the people of the State, "I interpret your vote in favor of the doctrine of the principle of Initiative and Referendum, but upon close analysis there are certain things in here that challenge my mentality." Don't you think you would say to the voters there are some things here that seem to be improper, if you thought so?

GOVERNOR DUNNE. If it challenged my conscience or sense of right I then would simply decline to vote for it. I would resign, in other words.

Mr. MAYER (Cook). No, because there are other matters before this Convention that the Initiative and Referendum.

GOVERNOR DUNNE. I would defer my vote, I would say, gentlemen I cannot follow your instructions, and I would get out.

Mr. MAYER (Cook). It would be unfair for you to get out because they would have no representation at all.

GOVERNOR DUNNE. I do not know whether my mentality is any better than the mentality of my constituents.

Mr. MAYER (Cook). I hope it is, Governor, than some of them.

GOVERNOR DUNNE. I am not going to set myself up as a superior being to them.

Mr. MAYER (Cook). I say some of them, and I believe privately you agree with me. Now, the Constitution of the United States, we believe that is the best instrument that has ever been devised by man.

GOVERNOR DUNNE. Yes, but I do not know about some of the amendments to the Constitution.

Mr. MAYER (Cook). I do not either. (Laughter.)

GOVERNOR DUNNE. I suppose you were talking about the original Constitution and the fourteen amendments.

Mr. MAYER (Cook). I am talking about the Constitution adopted in 1787 and 1788.

GOVERNOR DUNNE. Yes.

Mr. MAYER (Cook). Now, Judge, is the Constitution of Illinois less sacred to the suffrage of Illinois than the Constitution of the United States is to all the States?

GOVERNOR DUNNE. No, I think not. Of course, I think it is proper, perfectly proper for any citizen to discuss and suggest and advocate amendments to the Constitution of either the United States or any State in a peaceful, lawful and constitutional manner.

Mr. MAYER (Cook). You and I are in full accord on that. But the Constitution of Illinois to our six or seven millions of people in Illinois is no less sacred, is it, than the Constitution of the United States to the people at large?

GOVERNOR DUNNE. No, not while it exists.

Mr. MAYER (Cook). Well, Governor, I do really want your legal opinion and judgment on this matter.

GOVERNOR DUNNE. You don't want my legal opinion because your legal opinion is much better, I have no doubt.

Mr. MAYER (Cook). I thank you.

GOVERNOR DUNNE. You do not want my legal opinion.

Mr. MAYER (Cook). I do on some things. You are here defending this proposition 133 in its entirety?

GOVERNOR DUNNE. Yes, I am.

Mr. MAYER (Cook). I want to see after a little discussion between you and myself whether you still maintain that opinion. Now, the Constitution of the United States provides that it can be amended in only one of two ways. There must be first a vote of two-thirds of the members of both houses; they at the request of the legislatures of two-thirds of the States can call a convention to amend the Constitution, or upon a vote of two-thirds of the members of both houses; they propose a resolution to the legislatures of the States, but in every case there must first be two-thirds of the legislatures, the legislatures of two-thirds of the States, or two-thirds of the members of both houses to initiate the movement. Then there is either a convention called by the legislatures of two-thirds of the States or the matter is submitted to the legislatures direct upon a vote of two-thirds of the members of both houses and then the Constitution requires that where constitutional changes are proposed, or any amendment by two-thirds of the members of both houses, or by conventions called in two-thirds of the several States, before it can be adopted it requires the vote of the legislatures of at least three-fourths of the States. Now, I put to you whether the advisability of maintaining the fundamental charter of Illinois or the fundamental charter of the United States should not require a few more safeguards than the present proposition contains?

GOVERNOR DUNNE. I think not.

Mr. MAYER (Cook). Under your present proposition a petition is signed by 100,000 voters, or women now having the franchise, or about to get it, there would be how many voters in Illinois, about three million?

Mr. GARRETT (Winnebago). 2,500,000.

Mr. MAYER (Cook). So out of the vote of two and one-half millions a petition signed by 100,000 could put before the people of the State in a mandatory way, because the Secretary of State would be required to submit it, propositions to amend the Constitution, and if that proposition receives a vote of a majority of these voting upon it, not a majority of all the voters,

it carries. Now, isn't it dangerous? I am not speaking of the Initiative Judge, and Referendum with reference to legislation, but doesn't it appear dangerous to open the Constitution to changes and amendments? No limitation in your proposal that only one can be offered a year, there might be six or one dozen offered at different times in each year, and when you were discussing the expenses of election, you said there would be no additional expense except the printing of the ballot; I will read what it says:

"The initiative petition shall be filed with the Secretary of State, who shall submit the proposed measure or amendment for the approval or rejection of the electors at the first regular, general or special election held throughout the State subsequent to sixty days thereafter."

GOVERNOR DUNNE. I think that means—I have not got the statutes before me, I think there is something in the statutes requiring regular elections.

Mr. MAYER (Cook). Let us stick to our text. I know you are going to be just as fair with me as I am going to be with you. Here is an amendment to the Constitution. If this is adopted, this Initiative and Referendum, and by its very terms all that need elapse is a period of sixty days between the submission of the petition to the Secretary of State and the election at which the electors pass upon it, and the election can be either special or general. Now, the Constitution gives the Governor the power at any time to call a special election, with this provision in the Constitution. Let me put it in another way: This Initiative and Referendum is a part of the Constitution, but in Chicago, with our tremendous population and tremendous interests and antagonism, which we must admit a petition is gotten up. Now, I believe that you or I could go out and get a petition signed by 100,000 voters in Chicago that everyone in receipt of an income in excess of $5,000 shall be required to pay to the State of Illinois 90 per cent annually by way of taxes.

GOVERNOR DUNNE. I do not agree with you, Mr. Mayer.

Mr. MAYER (Cook). All right, I put it to you.

GOVERNOR DUNNE. I do not think you would find 100,000 men so unfair as that.

Mr. MAYER (Cook). Judge, the total number of taxpayers in the City of Chicago today is less than 100,000 out of 3,000,000 population.

GOVERNOR DUNNE. You mean real estate taxpayers?

Mr. MAYER (Cook). No, both. There are under 40,000 real estate taxpayers, at least those were the statistics a short time ago. I do not know what they are in 1920. We have a large floating electorate in Chicago, and you know it and I know it, and a half dozen conspicuous gentlemen of your ability and oratorical power were to take the forum in Chicago and advocate that all whose income is over $5,000 a year should be compelled to pay it to the State, or nine-tenths of it——

GOVERNOR DUNNE. You have less faith in the honesty and integrity of the people than I have.

Mr. MAYER (Cook). I beg your pardon, I have more, but I have less faith in the permanent mentality and equilibrium of the men you address than you have.

GOVERNOR DUNNE. Are you referring to this audience?

Mr. MAYER (Cook). Yes, include the audience if you will, but what I am after, Governor, is not dealing in phrases of witicisms. We are here to discharge a pretty solemn duty; to myself it is the first time in my life that I have been confronted with a situation of discharging to my fellow men a public duty; my duties have been private, and I have been sitting here asking myself these questions: Now, in the City of Chicago, where there is great discontent on the part of the wage earner, the street car drivers, school teachers and many hundreds of thousands of underpaid clerks, in factories and in shops and stores, now I believe that a petition could be obtained quickly signed by 100,000, submitted to a vote of the people an amendment which would exact nine-tenths of the income by income tax.

GOVERNOR DUNNE. I cannot agree with you on that.

Mr. MAYER (Cook). You may not agree with me, but, Judge, do you want the people of this State and the members of this Constitutional Convention to take that chance?

GOVERNOR DUNNE. I do not think it is a chance, I think the people are fundamentally honest.

Mr. MAYER (Cook). Then, upon your theory, the framers of the Constitution, Madison, Hamilton, Washington and Franklin and the rest of those great men, many of them proposed that the Constitution should not be amendable except by unanimous vote of the legislatures of all the States. You go to the other antipode; you leave the Constitution of Illinois subject to amendment upon a proposition and petition signed by less than three per cent of the voters and require only a majority of the voters on the proposition.

GOVERNOR DUNNE. Because it is a different proposition, Mr. Mayer; in one place the limitations are placed by the Federal Constitution upon the representatives of the people in Congress and the representatives of the people in the legislatures; the people themeslves are the origin and creators of the fundamental laws, they themselves pass upon this question, and I do not believe in placing a limitation on the fundamental fountain head of all legislation; the limitation was upon the representatives and not upon the people themselves.

Mr. MAYER (Cook). Your position is directed against the probability or possibility and not against the problem which I submit to you, and that is that the Constitution of Illinois could be amended six times in one year?

GOVERNOR DUNNE. The present Constitution says it may be amended by a majority vote when submitted to the people.

Mr. MAYER (Cook). Majority vote of all voting at that election.

GOVERNOR DUNNE. Yes.

Mr. MAYER (Cook). You submit to a majority vote of those voting on the question.

GOVERNOR DUNNE. Those that have an interest in public events will go to the polls and vote for their representatives and for their officials and vote on public questions, and those who do not will stay away, it is true.

Mr. MAYER (Cook). Now, I am coming back to one of the hypothetical questions put to you by another delegate, I am going to assume that the City of Chicago does not possess a majority of the voters but that it has a proportion, as it has now I think, about 45 per cent. Now, if in Chicago a petition is gotten up signed by 100,000 voters in Chicago submitting an amendment to the Constitution with reference to income tax, and I have seen it strongly debated in print and elsewhere to abolish the right of inheritance, you are aware that the Supreme Court of the United States has held that the right of inheritance is not a natural right—it may be removed—now, suppose that a proposition is made in Chicago that all estates exceeding $25,000 shall revert to the State; now, a majority of the people of Chicago, a large majority do not possess $25,000; they are just as good, honest and efficient and just as capable, they have their different ideas of property, and a proposition is made to amend the Constitution depriving the right of inheritance where the estate exceeds $25,000, and 100,000 sign such a petition and it does go to a vote of the people, and it turns out that a majority of those who have voted on that proposition, voting in favor of it, that majority comes from the City of Chicago; now, I am going to say it is probable, it is possible, isn't it?

GOVERNOR DUNNE. Very remotely; I do not think such a situation can arise because I have more faith in the honesty, faith and integrity of the people of Chicago and this State to think that it is possible that any such hypothesis as presented should ever come to pass.

Mr. MAYER (Cook). Then, from your standpoint the limitations, restrictions and qualifications as to the amendment of the Constitution are needless, it is the good faith of the people you rely on?

GOVERNOR DUNNE. If all the people in this State could meet in this room a majority would rule, of course. It is perfectly proper for the people to put restrictions upon the representatives in courts, legislatures and in

Constitutional Conventions, such restrictions as they deem fit, but to put limitations upon the ultimate law making power of the people themselves seems to me to be an absurdity.

Mr. MAYER (Cook). Isn't it a fact that frequently the excitement of the times destroys the normal equilibrium of the people at large temporarily?

GOVERNOR DUNNE. Oh, there have been great convulsions in history, but the people always settle down afterwards; why even after the reign of terror in France they got a republic finally.

Mr. MAYER (Cook). Governor, in your experience and mine, I am going to indulge in a concrete personal illustration; you and I were practicing law in Chicago when the great and celebrated McAllister was on the bench; there was on trial before him a gentleman for murder and he rendered a decision which was unpopular to the press and the people and the voters in Chicago at that time, I do not think were 100,000—this must be 25 years back—large petitions were obtained in less than seven days, and I was in court when they were presented, signed by a majority of all voters in Cook county demanding the resignation of Judge McAllister; do you remember that?

GOVERNOR DUNNE. I am not sure that your recollection may not be clear on the point, but I never heard—you and I, of course, were at that time just starting out in the practice of law—I believe we were admitted to the bar on the same day.

Mr. MAYER (Cook). Yes.

GOVERNOR DUNNE. I cannot recall that there was a majority of the people of Chicago asking his resignation. I know there was a bitter resentment at the time and it manifested itself very actively, but the good sense of the community finally prevailed and Judge McAllister, I think, died with more intense respect and admiration for him by the people of Chicago than any other judge.

Mr. MAYER (Cook). Judge, you are avoiding, you are not fair with me. I am not saying that the common sense of the people does not come to them in the end, but I am saying that would be the consequence if in a state of acute excitement such as existed at the time of Judge McAllister when he sat in the trial of Alexander Sullivan.

GOVERNOR DUNNE. Such a situation is impossible under the Initiative and Referendum, because at least sixty days has got to elapse, and those things die down in a few days.

Mr. MAYER (Cook). The opprobrium that was heaped on Judge McAllister did not die down in sixty days, it took several years.

GOVERNOR DUNNE. I cannot agree with you.

Mr. MAYER (Cook). You are willing to have the Constitution of Illinois subjected to amendments at any time, no matter how many times a year providing sixty days elapse whenever a petition is put with 100,000 voters?

GOVERNOR DUNNE. Yes, when the people declare so.

Mr. MAYER (Cook). Do you still insist there would be no additional expense to such election?

GOVERNOR DUNNE. I think they meant by the word regular, at the next ensuing regular election; in Chicago we frequently have regular elections, and special elections called for the same time, and I think the object of this language is the next regularly held election; if there is any doubt about the language I have no objection to clearing it up, but I think the election should be called at the next election, not special election.

Mr. MAYER (Cook). You get yourself into this hole, if you say the next regular election, that might not take place for two years or a year and a half; there is a regular election every two years.

GOVERNOR DUNNE. There is an election every year for something.

Mr. MAYER (Cook). Under this proposition of yours the legislation is arrested no matter what the legislature has passed until the next general election, it is not a law.

GOVERNOR DUNNE. All legislation is not suspended, only the acts upon which the referendum is invoked.

Mr. MAYER (Cook). It might be invoked upon a dozen acts.

GOVERNOR DUNNE. Yes, and not on one.

Mr. MAYER (Cook). Yes, you may live to be 150 years old——

GOVERNOR DUNNE. And I might die tomorrow.

Mr. MAYER (Cook). We are not indulging in mights and possibilities; this Convention, as I see its duties, is not indulging in any mights or possibilities. Under this law when an act is passed by the legislature, if the referendum is a State law, does not take effect until the referendum is voted on at the next election.

GOVERNOR DUNNE. Yes.

Mr. MAYER (Cook). Why have you discriminated against the people of the State? You say here, "Which shall extend to every act passed by the legislature"—suppose it is a constitutional amendment, which is of greater dignity or sanctity?

GOVERNOR DUNNE. What clause is that?

Mr. MAYER (Cook). Section 3. "Shall extend to every act passed by the legislature." Why do you exclude an amendment to the Federal Constitution, why shouldn't the people have the right to vote on that amendment that is proposed?

GOVERNOR DUNNE. It never occurred to me.

Mr. MAYER (Cook). I am not criticising you, Judge; I am coming back to the first question, that if upon a careful analysis of this proposal you found in your local judgment that there were things in there that needed modification or change or excision, you would not feel bound by the referendum vote?

GOVERNOR DUNNE. I would keep within the instructions given me by my constituents as far as I possibly could.

Mr. MAYER (Cook). Do you think the people of the State should be given the same rights—don't you think the people of the State should have the same right to vote upon a constitutional amendment as upon an act of the legislature?

GOVERNOR DUNNE. I think so.

Mr. MAYER (Cook). But it is not given to them by this proposed law.

GOVERNOR DUNNE. I am not sure about that. I have not read it carefully; if you say in your opinion it is not fair, I would abide by your opinion.

Mr. MAYER (Cook). "No act passed by the legislature." There are decisions of numerous courts holding that an amendment of the Constitution ratified by the legislature is not an act of the legislature.

GOVERNOR DUNNE. You may be right about that, I am not questioning that.

Mr. DUPUY (Cook). It has now reached the hour of one o'clock, and I move this committee do now take a recess until two o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole until 2:00 o'clock p. m., Tuesday, February 17, 1920.

2:00 o'CLOCK P. M.

Committee reconvened.

Chairman Dove in the chair.

CHAIRMAN DOVE. If the committee will be in order, I know there are a number of delegates here who wish to ask Governor Dunne a few more questions, and he and the next speaker, Mrs. Treadwell, wish to make the 3:50 train for Chicago, so I will first ask Governor Dunne——

Mr. FIFER (McLean). Mr. Chairman, I wish to ask the Governor a few questions if I may.

Now, Governor, without any flattery at all, I have been greatly interested and instructed by your very able discussion of this question, and I wish to ask no captious questions at this time, but as I understand your position, the whole object and purpose of this Initiative and Referendum is this: That if the legislature does not perform its duties, then you propose to go to the people?

GOVERNOR DUNNE. Supplementary.

Mr. FIFER (McLean). Now, the disturbing question in my mind in regard to this matter is, and always has been, whether you can trust the people any more than you can trust their representatives.

You have told us here about the third house at the meeting of every General Assembly, and there is a great deal of truth about it, as every man of experience knows, but, Governor, if you take an appeal from the legislature to the people, those men who represent the third house, who come here for the purpose of controlling and influencing the members unlawfully—would they go home and go to sleep, or would they get out among the people and corrupt them as they sometimes do the legislature now? Isn't it jumping from the frying pan into the fire?

GOVERNOR DUNNE. Edmund Burke said you could not indict a whole people; neither do I debauch a whole people.

Mr. FIFER (McLean). How is that?

GOVERNOR DUNNE. Edmund Burke said you could not indict a whole people. I don't believe that you can debauch a whole people.

Mr. FIFER (McLean). But look at the spectacle we see now in Michigan and Ohio. It was only a few years ago that they indicted them by the thousands over in the State of Ohio, and they were convicted as fast as the jury could go out and pass on the case, and finally they came in by the thousand, and it was developed in that case, or that series of cases, that they were bought at two dollars a head. Now, the question is as to whether or not you could not buy enough of the voters, just the same as you would buy a legislature, to change the election in any way in which, we will say, the interests desire the election to go?

GOVERNOR DUNNE. Is there a question, Governor?

Mr. FIFER (McLean). How?

GOVERNOR DUNNE. Is there a question?

Mr. FIFER (McLean). The question is, if these gentlemen come to the legislature, when you take your appeal to the people, wouldn't they go among the people and try to influence them? It is said in Michigan now that a United States Senator bought his seat.

GOVERNOR DUNNE. I think I have answered it.

Mr. FIFER (McLean). As in the instance that I cited that occurred down here in the State of Ohio, might they not buy enough votes at an election to change the election one way or the other?

GOVERNOR DUNNE. I think there is much less likelihood of debauching two or three million people or six million of people than a few members of the legislature.

Mr. FIFER (McLean). Isn't the charge frequently made that more money is spent in controlling the elections of the people than in the legislature?

GOVERNOR DUNNE. Well, I have heard both charges, but it takes more money to buy millions than it does a few votes.

Mr. FIFER (McLean). You would hardly buy a member of the legislature for two dollars. (Laughter.)

GOVERNOR DUNNE. Any other questions? I want to make this train.

Mr. FIFER (McLean). Now, isn't there difficulty, Governor, in administering any kind of government; there is always difficulty about it, isn't there?

GOVERNOR DUNNE. Why, there is some difficulty in every transaction of life.

Mr. FIFER (McLean). And that difficulty will continue as long as the human race remains in its present immoral and intellectual state, won't it?

GOVERNOR DUNNE. Every business man has his difficulties, and I suppose every official has his difficulties.

Mr. FIFER (McLean). If I could be convinced, Governor, that there would be less corruption if all these questions were referred to the people, and you would get a more honest product from them than you would get from a legislative body, I would not hesitate about this question at all.

GOVERNOR DUNNE. That is my opinion.

Mr. FIFER (McLean). What is your opinion about the United States Senate? We took the power from the several legislatures to elect United States Senators, and now they are elected by the people. We hoped to get an improvement, didn't we?

GOVERNOR DUNNE. Yes.

Mr. FIFER (McLean). Have you succeeded?

GOVERNOR DUNNE. I think so.

Mr. FIFER (McLean). How?

GOVERNOR DUNNE. I think so.

Mr. FIFER (McLean). In all States, including this one?

GOVERNOR DUNNE. I think so.

Mr. FIFER (McLean). There is ground for a difference of opinion on that question.

GOVERNOR DUNNE. I am not passing judgment on the Michigan case, because you and I are both lawyers, and we both presume that this man is innocent until we hear what the court says.

Mr. FIFER (McLean). Don't you think, Governor, if these test questions were taken from the legislature and given into the hands of the people to legislate on there would be more incentive to corrupt the electorate than there is now?

GOVERNOR DUNNE. No, there would be the same incentive, but you would not have the same number for them to work on. It would cost more money in the first place.

Mr. FIFER (McLean). Take this question; there would be thousands and thousands of men who would vote on the question raised by your referendum who can neither read nor write, and possibly a majority of them, if they had to act or be interested in the construction of the law, could not trust their own opinion, but would go to a lawyer's office and consult an attorney.

GOVERNOR DUNNE. I think there are a great many people who make up their minds from the views of other people, both educated and uneducated people.

Governor, will you pardon me. I see Mrs. Treadwell. I see she wants to come up here. I will come back again, but I want to let this lady go ahead.

CHAIRMAN DOVE. It was with a great deal of pleasure that the committee extended its invitation to one who is here, and one who has seen her way clear to address the committee. We welcome Mrs. Treadwell, who will speak to us just a few minutes. She wishes to leave on this three o'clock train. Mrs. Treadwell——

Mrs. HARRIET TAYLOR TREADWELL. Mr. Chairman and members of the General Assembly, whom the men elected: I felt this morning when I listened like saying, "Oh, mercy," and this afternoon I am afraid of you, because as I listened this morning I thought, "Well, I don't know where we are really at."

I had the privilege of being the chairman of the Chicago Gateway Amendment League, and my sole object in being president was not because I was a politician—though I am going to be a politician within a few days now when we get the full ratification of thirty-six States—but my whole object was to get an opportunity for the people. I have worked for the equal suffrage from the stage when it was almost rotten eggs, through the stage where for a man to wear an Oscar Straus button was sometimes to be scorned, down to the stage where it is rather fine to be a real suffragist. So now I know the struggle the women have gone through, and my sole object in taking the presidency was to get a chance to help say possibly that sometime the people would have more of a chance to have laws under which everyone governed.

Now, you were called to make the new Constitution, and you are rich to have the opportunity to make it, and you are to make it so that it shall last longer than forty-seven years, although that is a long time for a Constitution to go along without change. We know you want to put into that Constitution happiness. People are not happy under this Constitution and under other Constitutions.

I sat in the Massachusetts Constitutional Convention for two days when they were in session, and I don't think they made the Massachusetts people so awfully happy after they got through with it, and today you are making a Constitution, and it is up to you to make a Constitution that shall make the people happy. If they are not happy they are discontended, and if they are discontended they grumble, and if they grumble they worry, and worrying makes death sometimes.

The thing is, we want the people to have a direct voice sometimes and say what they want, and the Initiative and Referendum is no more than nor less than a universal opportunity for education. It really is a university of the public where the men and the women will go to school to study the laws; that it, the laws that we present to them, and instead of talking twaddle over the dinner table they will begin to talk about what is worth while. I look upon it as a liberal education for the people to have a chance to discuss the laws, and even to have the initiative in making them if they want to.

By the way, when it comes to a matter of money, I helped to take care of the money. I know we handled about $180.

We want the people to have a chance to say something about the laws, to take the initiative, and if they don't really like the laws, to have something to say about whether or not they shall go through; and whether they do it in heat or passion or not, in the first step, it has to be deliberated for sixty days, when all vested interests and other interests can say what they like.

For the petition, 50,000 I think is enough, because I tried to work on the other petition, and if you have ever tried to get up a petition of 150,000 you know it is almost impossible. Everything is made so difficult for the people, we would really like to have the people have a chance. I am a pretty good voter. I have voted on every single little dinky miserable opportunity that I have had; all the years we have had any chance to vote I have never missed one election, and I don't believe any man can do any better than that, and I am not afraid that when we have our women trained and going to school that they will neglect their opportunities.

What we want to do is give everybody a chance and an interest in life. We want to have life, liberty and the pursuit of happiness, and love means interest in life. If you haven't an interest in life, you are dead although you live.

We want this for all the people, and we see no reason why you should be afraid of it. This morning some of you seemed to be afraid that somebody was going to do something queer. You count on inertia of the mass. There was inertia of the mass when we tried to get signatures for that petition. There was inertia of the mass when even some of you were elected, and you are the ones that we have chosen to make this new Constitution, and the inertia of the mass is what most of the people count on. You don't have to worry about it, but you, in building up this Constitution, are the leaven that is going to lift up, and if you will be lifted up, all people will be lifted up under you, and so we hope that you will make us a fine Constitution, and here are the points we want you to have in it: Justice, happiness, independence of the people, energy saved, because now so much energy is lost that it would move mountains if we could save all the energy that we waste, even in the breath of talking, and we want universal opportunity for education.

All these things we are asking for, and we believe when the people ask for them through the initiative and referendum, they will agree, and we will have a happier people because we will have a more educated people.

I thank you, gentlemen. (Applause.)

CHAIRMAN DOVE. Is there any other question of Governor Dunne?

Mr. WALL (Pulaski). Under section 4, it is true, is it not, that the initiative and referendum is to be extended not only to the people of the State, but it refers to the people of each city, village and other municipality?

GOVERNOR DUNNE. Yes.

Mr. WALL (Pulaski). Now, in the City of Chicago you have a very large colored population. It is true, is it not, under this section, that a

petition is to be circulated, under the powers of the initiative, to segregate the colored people of the City of Chicago?

GOVERNOR DUNNE. Yes.

Mr. WALL (Pulaski). And isn't it also true that you spoke a while ago about equilibrium and poise and judgment of the people being relied upon at all times, and the few mistakes that the people make. In the latter statement, I partially agree with you, but during the race riots in the City of Chicago do you think there would have been any trouble about getting up a petition there of a hundred thousand people to segregate the colored race?

GOVERNOR DUNNE. No, no more than there was in St. Louis when the city council did the same thing.

Mr. WALL (Pulaski). Do you know that the city council did that, and since that time the courts have reversed the city council?

GOVERNOR DUNNE. That may be.

Mr. WALL (Pulaski). Isn't it also true, Governor, that during the heat of war, at the beginning of our entry into the war, that the same thing would have been done with the German people of the City of Chicago?

GOVERNOR DUNNE. I don't think so.

Mr. WALL (Pulaski). Would there not have been a hundred thousand ready to segregate the German people?

GOVERNOR DUNNE. I don't think so.

Mr. WALL (Pulaski). If it is true, Governor, a petition could have been circulated and possibly carried to segregate the colored people, is it not also true that the same powers could have depopulated the city of colored people and absolutely put them out of the city under the same principle?

GOVERNOR DUNNE. I don't think that the people are as susceptible——

Mr. WALL (Pulaski). Answer that question. Haven't they the power to do that?

GOVERNOR DUNNE. The same power would be given to the people that has been given in the past to legislatures and councils. Councils have done these things, as well as others.

Mr. WALL (Pulaski). I live in the Cairo district, at Mound City. People down there feel under great obligations to you for signing a bill to build one of our levees. I am asking this question to get information and get the general trend and tendency, and the final analysis of this principle. Now, I want to ask you this: If you did segregate the colored people in Chicago in a certain section, could you not afterwards un-segregate or segregate somewhere else, let them go along for a year or two, and then go in another section?

GOVERNOR DUNNE. I don't think there is as much chance of the people making those mistakes as the legislature. In the legislatures down south they don't allow the colored men to ride in the street cars. The body of the people at large would not be as liable to make such emotional mistakes as the legislators selected to represent them.

Mr. WALL (Pulaski). Down where I live, the colored people are law-abiding and industrious people. Would that not produce this state of affairs, Governor; that in one part of the State the bill of rights would be subverted to the whim and will of a certain locality and a certain class of the American citizenship of Illinois would be deprived of their rights, whereas in another part of the State no such thing would exist?

GOVERNOR DUNNE. It would depend altogether upon the Constitution framed by the people. If the Constitution prohibited that class of legislation, why, of course, it would be declared unconstitutional by the courts.

Mr. WALL (Pulaski). I want to call your attention to the application of the initiative as determined by this section of Proposal 133 where it applies to cities and municipalities.

GOVERNOR DUNNE. Whatever power was given by the initiative and referendum to a city would be, I suppose, performed in accordance with the powers given.

Mr. WALL (Pulaski). In that locality.

GOVERNOR DUNNE. In that city, yes. I think I have got to make the train. Gentlemen, pardon me if I cannot give you any more time.

Mr. WALL (Pulaski). Isn't it also true, Governor——

GOVERNOR DUNNE. Just a moment; is this clock right?

Mr. WALL (Pulaski). I beg your pardon.

GOVERNOR DUNNE. I would ask you if I could be permitted to leave? The train leaves at 2:55.

Mr. DUPUY (Cook). Mr. Chairman, I move that the speaker be requested, or invited, to remain over and continue this discussion. This committee unanimously recommended that the time of this Convention should be given to this discussion. We are anxious to hear this discussion through. It seems to me Judge Dunne ought to be willing to sacrifice a day.

GOVERNOR DUNNE. Just as you say, gentlemen.

CHAIRMAN DOVE. What are your wishes, Governor?

GOVERNOR DUNNE. I defer to the wishes of the gentlemen. If they want me to remain here, I will remain.

Mr. SUTHERLAND (Cook). Has Judge Wall concluded with his questions?

GOVERNOR DUNNE. Judge Wall.

CHAIRMAN DOVE. Judge Wall, have you any further questions?

Mr. WALL (Pulaski). Governor, you say that in a spirit of revolt, at a time when there is great public distress and unrest, such as we have been having in Illinois and elsewhere, that you can always trust a hundred thousand of the people of the State to act with such statesmanship, with such due care and deliberation in the public interests, that where a hundred thousand of them sign a petition, it is worthy of going to the ballot to be voted upon as a law? If that is true, with the race hatred and prejudice and animosity that exists in this State, and in fact, most of the states, against a paricular race of people, isn't it a fact that we would be holding elections at every general election under this initiative affecting the security, the safety, the tranquility and the peace of the colored people?

GOVERNOR DUNNE. No, I don't think so. I think you would occasionally have to have some questions brought up arising out of that, but not at every general election.

Mr. WALL (Pulaski). Isn't it also true, Governor, that the Italians and Lithuanians and other foreign nationalities have enough prejudice already engendered against them even among some men who are conservative, that a hundred thousand names could be secured to a petition depriving them of certain liberties and privileges?

GOVERNOR DUNNE. I don't think so.

Mr. WALL (Pulaski). Is it not true that in all the history of the past there has never been a time in Illinois when as many as three hundred thousand people could not be secured upon a petition to deprive the colored man of his right to vote?

GOVERNOR DUNNE. I don't think so. I don't recall any effort in this State at any time to deprive the colored man of his vote.

Mr. WALL (Pulaski). You don't?

GOVERNOR DUNNE. No.

Mr. SUTHERLAND (Cook). If he could be deprived through the initiative and referendum of his right to vote, of his right to live in a certain locality, of his right to enjoy the blessings of liberty, is it not also true, if he was segregated by any small municipality, or the municipality of Chicago, he could be deprived by the passage of a law that would prevent the making of improvements around his segregated district, such as the building of streets, highways and other public improvements?

GOVERNOR DUNNE. There would be no difference between an ordinance passed by the City Council and an ordinance passed under the Initiative and Referendum for that city.

Mr. WALL (Pulaski). There would be no difference?

GOVERNOR DUNNE. No, the same danger would come from the representatives of the people in the Councils as would come from the people them-

selves, only I think there would be less danger in trusting to the people generally than trusting to the few.

Mr. Sutherland (Cook). You think that the Courts would intervene, in other words to protect the rights of the minorities, whether the acts were by Initiative and Referendum or by local representative bodies?

GOVERNOR DUNNE. If it violated any Constitution that was adopted by the State of Illinois, either by the present methods or by the Initiative.

Mr. SUTHERLAND (Cook). From your careful study on which you base your statement on these propositions, you are of course aware that in Oregon, to take one example, there is a strong tendency on the part of elected officials to accept as a final mandate with the full force of a constitutional provision any matter that has been provided on a referendum vote, are you not?

GOVERNOR DUNNE. Well, I think there is a strong tendency to respect the wishes of the people as declared on an initiative or referendum vote.

Mr. SUTHERLAND (Cook). Do you not recall that in 1910 when there were some wealthy fishermen desiring to preserve the Rogue River for private purposes, they initiated a certain measure which put out of business a number of fishermen in Curry county, Oregon, which was carried chiefly by the vote of the big cities, and the succeeding legislature repealed that act that Governor Oswall vetoed that repeal on the ground that he had promised to uphold all votes of the people, and are you not aware that many of the judges in Oregon are beginning to take that same attitude?

GOVERNOR DUNNE. I am not familiar with this; no, sir. I have heard of the fishing case, but I am not familiar with the details.

Mr. HAMILL (Cook). You said that the initiative and referendum was opposed because selfish corporate interests don't want it.

GOVERNOR DUNNE. I think so; that is my belief.

Mr. HAMILL (Cook). Did you intend to imply that all those who opposed it were guided by selfish corporate interests?

GOVERNOR. I don't think so.

Mr. HAMILL (Cook). Why did you give that as a ground for opposing it?

GOVERNOR DUNNE. Because I say it is my belief that the opposition to the Initiative and Referendum, that is, the principal opposition, has come from the corporate interests.

Mr. HAMILL (Cook). You opened your paper by emphasizing the fact that on three occasions a majority of those voting on the question had endorsed the Initiative and Referendum when presented on the public policy ballot.

GOVERNOR DUNNE.. Yes.

Mr. HAMILL (Cook). I assume you did so because you desired to impress upon this Body that there was some moral, at least, obligation upon them to obey that oath?

GOVERNOR DUNNE. It ought to appeal to any representative of the people.

Mr. HAMILL (Cook). You replied to an inquiry put to you by Delegate Corlett that you did not think there was any legal obligation?

GOVERNOR DUNNE. Yes.

Mr. HAMILL (Cook). But you do think that there is a moral obligation?

GOVERNOR DUNNE. I do.

Mr. HAMILL (Cook). Would you be kind enough to tell us whether you think that moral obligation rests upon each individual here according to the vote of the State, according to the vote of the county, according to the vote of the congressional district, or according to the vote of the senatorial district?

GOVERNOR DUNNE. Well, I think primarily he ought to follow the wishes of his own constituency, but I think if I were a member of the Constitutional Convention, I would pay a good deal of attention to the fact that the people of the whole State had voted by a majority for it.

Mr. HAMILL (Cook). If you were sitting here, representing a Senatorial District which had voted no on the proposition, would you consider that vote, or would you consider the fact that in the State at large it carried by about 46,000?

GOVERNOR DUNNE. If my own constituents that sent me were opposed to the Initiative and Referendum, I think I would defer to their interests.

Mr. HAMILL (Cook). You think the vote according to Senatorial Districts should control here and rule?

GOVERNOR DUNNE. I would like to regard them all, but if I had to make my choice between the vote of my constituents of my district, and the State at large, if there was a conflict, why I think I would probably defer to the wishes of my district, but if the vote of the State at large, as well as my own district, were in accord, why I would not have any trouble.

Mr. HAMILL (Cook). I understood you to reply to a question put to you by Delegate Mayer (Cook) that you thought the Constitution of the State should be regarded as sacred, to the citizens of the State as the Federal Constitution is to the citizens of the Union.

GOVERNOR DUNNE. Yes, but always subject to amendment, that is, by proper Constitutional methods, and peaceful methods. When I say it is sacred, I don't regard it as sacrosanct, that I can't advocate this amendment in proper ways.

Mr. HAMILL (Cook). You don't regard the Federal Constitution as being sacrosanct, do you?

GOVERNOR DUNNE. No, I think it can be amended in a peaceful, orderly way.

Mr. HAMILL (Cook). I understood you as answering in the affirmative on the question put to you by Delegate Mayer (Cook) when he asked you if you considered the State Constitution as sacred to the State as the Federal Constitution to the citizens of the Union?

GOVERNOR DUNNE. It is binding on the conscience of the voter until it is changed.

Mr. HAMILL (Cook). That doesn't answer that question. Did I correctly understand you to answer in the affirmative?

GOVERNOR DUNNE. Repeat the question, and repeat the original question that you want me to answer.

Mr. HAMILL (Cook). My question is, Did I correctly understand you to answer in the affirmative to an inquiry put to you by Delegate Mayer (Cook) when he asked you if you considered as sacred to the citizens of the State the State Constitution as you considered sacred the Constitution of the United States to the citizens of the Union?

GOVERNOR DUNNE. Yes, both

Mr. HAMILL (Cook). You advocate then, amending the Federal Constitution by the Initiative.

GOVERNOR DUNNE. I would.

Mr. HAMILL (Cook). In the same way in which you would advocate this?

GOVERNOR DUNNE. I would.

Mr. HAMILL (Cook). That is all.

Mr. DAVIS (Cook). Governor, in the course of the discussion that has taken place this forenoon, and that is taking place now, I understand you to say that you have not studied the Initiative and Referendum provision of Massachusetts; that you are not acquainted with the operation of the Oklahoma Initiative and Referendum, and are not familiar with the Initiative and Referendum legislation of Oregon; am I to understand, Governor, that you, as President of the Initiative and Referendum League, are urging upon this Convention the adoption of Proposal 133, or are you simply submitting to us as a principle of government, the idea of the Initiative and Referendum?

GOVERNOR DUNNE. I am advocating both; I am in favor of the idea of the Initiative and Referendum and the adoption of 133.

Mr. DAVIS (Cook). Will you have the Convention understand that you have reached the conclusion that it is advisable to adopt Proposal 133, although you have also said you only looked at it yesterday and again glanced at it this morning?

GOVERNOR DUNNE. As I understand it, yes, because it was on the lines of the proposal submitted to the people away last December.

Mr. DAVIS (Cook). Governor, if I understand you correctly, the inquiries propounded regarding the effect of this proposal were answered by you in general statements of the confidence which you have in the citizens of the State of Illinois?

GOVERNOR DUNNE. Well, I stated that I have confidence in the general character and integrity of the citizenship of the State at large.

Mr. DAVIS (Cook). You would advocate that the Constitution of the State of Illinois should be at least in some degree in keeping with the Constitution of the United States, would you not, Governor, regarding the fundamental propositions such as life, liberty and property.

GOVERNOR DUNNE. There are certain provisions of the Constitution of the United States with reference to the amendment of the Constitution of the United States.

Mr. DAVIS (Cook). I have not in mind any provisions looking to the operation of the Constitution of the United States in the State of Illinois. Let me be specific. I have in mind the provisions of the Constitution which give protection to an individual, even in spite of any action of a majority—the right of one's life, the pursuit of happiness, protection of property.

GOVERNOR DUNNE. Some of the things preserved in the Bill of Rights.

Mr. DAVIS (Cook). Exactly. You do, then, believe that there should be some similarity, at least, between the Constitution of the United States and the Constitution of the State of Illinois, as far as the provisions of the Bill of Rights are concerned?

GOVERNOR DUNNE. Yes.

Mr. DAVIS (Cook). Or would you have us set up a government in Illinois entirely different in its theory from the fundamental conceptions of our forefathers?

GOVERNOR DUNNE. I don't think there is any conflict.

Mr. DAVIS (Cook). Do you propose that there should be any conflict, Governor?

GOVERNOR DUNNE. Let me answer. I don't believe, as I recall the Constitution of the United States and the Constitution of the State of Illinois, that there is any conflict between them as to the Bill of Rights.

Mr. DAVIS (Cook). As Ex-Governor of the State, I am asking you if it is your opinion that those particular principles which have been laid down in the Constitution of the State of Illinois should differ from the principles enunciated in the Federal Bill of Rights?

GOVERNOR DUNNE. I am in favor of the enunciation of the Bill of Rights in the Constitution of the United States and in the Constitution of this State. I have no criticism of the Bill of Rights, and I think any Constitution the people will adopt, whether by legislative action—I mean by the Constitution itself, or by initiation—will perserve this Bill of Rights. I think you need not be at all alarmed that there will be any attack by the people upon the principles enunciated in the Bill of Rights.

Mr. DAVIS (Cook). In my conception of the attitude of George Washington and Alexander Hamilton and Benjamin Franklin regarding the rights of the people, and in considering your statements today regarding the rights of the people, I do see a difference between the views expressed by you and those expressed by our forefathers.

GOVERNOR DUNNE. In that I am very unfortunate, because the contrast between such men and myself would be much to the disadvantage of myself.

Mr. DAVIS (Cook). If I understand the Governor rightly, do you disagree with them?

GOVERNOR DUNNE. I do not, as I understand.

Mr. DAVIS (Cook). They said that not only the minority, but even an individual, shall be protected by the authority which the people themselves have created.

GOVERNOR DUNNE. The people always are, in their Bill of Rights.

Mr. DAVIS (Cook). Now, I understand, Governor, that you would allow a majority to so amend and change the Bill of Rights as to affect the rights of a minority?

GOVERNOR DUNNE. No, the majority will never attempt any attack upon the rights preserved by the Bill of Rights.

Mr. Davis (Cook). But, Governor, that is not the question. I am the last man on earth—who had the honor of addressing you when you were on the Bench as a citizen of Chicago, as a citizen of Illinois when you were Governor—I am the last man on earth, and my youth and my inexperience and my limitations would not permit me—to charge you even with not trying to be fair, but do you propose that we shall in the fundamental law of the State of Illinois, incorporate a provision which shall make it possible legally for a majority to deprive a minority of their rights?

GOVERNOR DUNNE. I don't believe a majority ever will pass such a law.

Mr. DAVIS (Cook). That is not my question.

GOVERNOR DUNNE. I believe in placing no limits whatever upon the ultimate law-making power of the mass of the people.

Mr. DAVIS (Cook). You believe in creating a sort of a document which shall prevent this?

GOVERNOR DUNNE. I have been placing no limits upon the fundamental right of the people to make the laws which shall govern them.

Mr. DAVIS (Cook). Let me ask you the question in another way. As an American, I ask another American whether in the State of Illinois an ex-Governor of the State of Illinois is urging upon the Constitutional Convention the incorporation into that document of a basic proposition, called by you the initiative and referendum, which would permit a majority of the people to deprive a minority of their rights?

GOVERNOR DUNNE. Again I repeat I believe in placing no limitations upon the people themselves as to their law-making rights.

Mr. DAVIS (Cook). Then I do understand you correctly, do I not?

GOVERNOR DUNNE. I think you do.

Mr. MILLER (Cook). Governor, may I ask you this question? Are you familiar with the operation of the California I. and R.?

GOVERNOR DUNNE. I know it has been in existence, particularly in Los Angeles, for possibly sixteen years.

Mr. MILLER (Cook). I mean the state.

GOVERNOR DUNNE. I think in the state since 1908—no, about eight years, I think.

Mr. MILLER (Cook). Something more than eight years. Are you familiar with the operation of that law since it has been in force?

GOVERNOR DUNNE. Well, I would not say intimately acquainted, but I know something about it. I did not live in California; I have not watched it as carefully as I would if I had been there.

Mr. MILLER (Cook). You know perhaps that there the Constitution as well as the laws, may be amended upon the initiative?

GOVERNOR DUNNE. Yes.

Mr. MILLER (Cook). And do you know how often that has been exercised per year?

GOVERNOR DUNNE. I know that one election there was some forty-four or forty-eight questions presented to the people, but the majority of

those questions were submitted to them by the legislature, and not upon the initiative or referendum.

Mr. MILLER (Cook). Aren't you mistaken about that? The great majority was submitted by the people themselves, and only a small minority by the Legislature.

GOVERNOR DUNNE. No, I think not.

Mr. MILLER (Cook). I think you are mistaken about that, Governor.

GOVERNOR DUNNE. Well, the information that I have—of course neither one of us lives in California—but the information I have does not agree with yours.

Mr. MILLER (Cook). Of course this is true, is it not, Governor, that in California since the Constitution may be amended in the same way that the statutes may be, and just as easily and just as rapidly, as is provided in this measure, the people resort to amendments of the Constitution rather than to the statutes, and naturally that is true, is it not, that is what happens there?

GOVERNOR DUNNE. Well, I suppose it would occur as frequently, might occur as frequently.

Mr. MILLER (Cook). Because if they tried to amend the statutes, it might conflict with the Constitution, so since one is just as easy as the other, they undertake to amend the Constitution and has it not been frequent that as high as thirty amendments to the Constitution have been submitted in one year?

GOVERNOR DUNNE. I am not apprized of that. My information is that on one occasion—I think that was the highest, that forty-eight measures were submitted, but twenty-seven were submitted by the legislature and sevénteen by the initiative and four by the referendum.

Mr. MILLER (Cook). I have seen where eleven were proposed by the initiative and three by the legislature, and so forth. Now, is this not true also, Governor——

GOVERNOR DUNNE. I can give you what my information is: For the year 1912, total number submitted, 8; 1915, 11; 1916, 7.

Mr. MILLER (Cook). I find that in 1914 there were 30, and 1920——

GOVERNOR DUNNE. There were 48 submitted, 27 submitted by the legislature, and not pursuant to the initiative and referendum.

Mr. MILLER (Cook). 30 of the 48 were amendments to the Constitution and the rest were submitted by the legislature. Now, is it not true that it has happened that amendments to the Constitution have been carried sometimes by less than twenty per cent of the total vote of the state?

GOVERNOR DUNNE. I am not informed on that, Mr. Miller.

Mr. MILLER (Cook). Now, Governor, let me ask you this: Do you see any real reason why, since under that proposal an amendment to the Constitution, an amendment could be passed by a majority of those voting on the subject, do you see any real reason why an amendment could not be passed with the same vote that was polled at the last election?

GOVERNOR DUNNE. Take this vote at the last election; it was smaller than the vote passed before, but I believe it was about as large as the vote by which you gentlemen are sitting here.

Mr. MILLER (Cook). Yes, it was.

GOVERNOR DUNNE. So that your result is about the same by popular vote as by the initiative and referendum.

Mr. MILLER (Cook). I was not criticizing at present the result at all.

GOVERNOR DUNNE. Of course, there was not the widespread interest in the election of the Constitutional Convention that there was at the general election. We will all admit that.

Mr. MILLER (Cook). Can you see any real reason why under a proposal of this kind constitutional amendments could not be carried by about the same vote as we were elected?

GOVERNOR DUNNE. I think if you propose to amend the Constitution in any serious way, the people will be heard from on that. The results in other states, as I gather it, show that seventy-five per cent of the people vote on these questions when they are brought up.

Mr. MILLER (Cook). That is not my information, but in California my information is that some constitutional amendments have carried with a vote of less than twenty per cent of all the voters.

GOVERNOR DUNNE. My information as collected, is that seventy-five per cent of the people vote on these questions.

Mr. MILLER (Cook). Just one more question, Governor. As I understand it, you think it is proper and advisable to allow a constitutional amendment, and allow individuals' rights to be affected by a majority of those voting on the question, even though as small a number as eleven per cent vote?

GOVERNOR DUNNE. Well, I answered that before, Mr. Miller. I don't believe in placing any limit upon the law-making power of the body of the people.

Mr. MILLER (Cook). Even though only eleven per cent carry it?

GOVERNOR DUNNE. I have answered completely. I don't believe in placing any limits on it.

Mr. DEYOUNG (Cook). Governor, may I ask you one or two questions?

GOVERNOR DUNNE. Yes.

Mr. DEYOUNG (Cook). You just said, Governor, you believed in placing no restraint upon the law-making power of the people?

GOVERNOR DUNNE. Of the body of the people.

Mr. DEYOUNG (Cook). Of the body of the people. So that, as a legal proposition, under Proposal No. 133, the Constitution of the State may be amended by a petition initiated by a hundred thousand petitioners, and may be made effective as a part of the fundamental law of Illinois, by a majority vote upon that question, no matter how negligible the vote on that question may be, as compared with the total electorate of the State?

GOVERNOR DUNNE. I think so; that is the way you elect your officials.

Mr. DEYOUNG (Cook). Wait a minute——

GOVERNOR DUNNE. And nobody has found fault with that.

Mr. DEYOUNG (Cook). Wait a minute, Governor; let us get on a common ground. My statement is correct; my question involves a correct statement, does it not?

GOVERNOR DUNNE. I say that a majority of the people voting shall decide when it is submitted to them, in accordance with these provisions.

Mr. DEYOUNG (Cook). No matter how small the vote upon the question may be as compared with the entire vote in Illinois, a majority voting in favor of a question, of a constitutional character, we will say, become effective as a part of the basic law of the State?

GOVERNOR DUNNE. Why, repeatedly I have answered the question——

Mr. DEYOUNG (Cook). Just a minute.

GOVERNOR DUNNE. I say I believe in a majority of the people being allowed to exercise their rights without limitations.

Mr. DEYOUNG (Cook). I don't want any difference of opinion; I want to get to a common ground. And you also propose, and I believe you advocate, the incorporation of Proposal 133 in the proposed Constitution, or separately if you will, but at least as a part of the basic law of Illinois, which removes any difference or distinction between a measure of a constitutional character or of a legislative character, so far as its initiation and its becoming effective are both concerned?

GOVERNOR DUNNE. That is right.

Mr. DEYOUNG (Cook). If, Governor, that is right as a sound principle of government, then what becomes of the difference between measures of a Constitution, which always in the history of the republic, as well as of the states, have been deemed to be of a higher and of a more permanent character than merely statutory matters, and matters of a legislative character; why not reduce everything down to the level of mere legislation?

GOVERNOR DUNNE. Because, Mr. DeYoung, the legislature still remains; the initiative and referendum does not abolish the legislature.

Mr. DEYOUNG (Cook). I quite understand that.

GOVERNOR DUNNE. And the object of the Constitution is to empower the representatives of the people elected to the legislature to pass certain laws within the limits of that fundamental law, and that is the reason why.

Mr. DEYOUNG (Cook). May I ask the question then, what becomes of your Constitution and the General Assembly of your State, if by the processes which I mentioned you can not only enact legislation of a temporary, or of an economic character, if you will, but you can change the basic law of the State, even unto the bill of rights itself?

GOVERNOR DUNNE. Because the people will not go to the trouble, in my judgment, of legislating, or vetoing legislation, unless it becomes necessary. They rely upon their legislatures to pass their laws within their constitutional limitations, but when they fail to act or when they act and pass laws that they don't like, then the people will exercise their right of legislation.

Mr. DEYOUNG (Cook). I am unable to discern that that is an answer to my question.

GOVERNOR DUNNE. I think it is.

Mr. DEYOUNG (Cook). Governor, I asked the question what becomes of the legislature and the Constitution itself and all the restraint imposed by the fundamental law if by this simple process you can enact legislation to change the provisions of the Constitution itself?

GOVERNOR DUNNE. The legislature still functions.

Mr. DEYOUNG (Cook). The legislature still functions, but any measure that is adopted or becomes effective by a mere hundred thousand petitioners, and a majority voting upon the question, if that majority is only a hundred thousand, may change the Constitution of the State of Illinois; you advocate that as a part of the Constitution, do you, Governor?

GOVERNOR DUNNE. I do.

Mr. DEYOUNG (Cook). Then may I ask you what becomes of the theory and the whole history of constitutional processes in the United States, as well as in every state of the Union?

GOVERNOR DUNNE. What becomes of them?

Mr. DEYOUNG (Cook). Yes.

GOVERNOR DUNNE. I don't understand.

Mr. DEYOUNG (Cook). If you can reduce Constitution-making and the permanence of constitutional provisions merely to the level of legislation, because you make no distinction, and the people of Illinois, if such a proposal becomes effective, by this mere small number of petitioners, and possibly by a lesser number of voters in favor of it, can change the Constitution, even as you admit, the bill of rights, itself, why the necessity or what the purpose or what the protection of a Constitution?

GOVERNOR DUNNE. Why, I don't understand your question.

Mr. DEYOUNG (Cook). I think it is clear.

GOVERNOR DUNNE. I say that the Constitution is there and I say that the legislature is there. You asked me what becomes of the legislature. The legislature is not abolished, and the Constitution is there, subject to amendment at all times by the people; it is there.

Mr. DEYOUNG (Cook). But Governor, doesn't a proposal so initiated and so carried supercede both the existing Constitution, as far as it may be affected, and the law-making power as vested in the legislature of the State?

GOVERNOR DUNNE. If I understand your question——

Mr. DEYOUNG (Cook). Yes or no.

GOVERNOR DUNNE. If I understand the question, a new Constitution certainly supercedes an old Constitution.

Mr. DEYOUNG (Cook). I am talking about changes which may be effected by the proposed Initiative.

GOVERNOR DUNNE. It amends simply the Constitution; the Constitution is there.

Mr. DEYOUNG (Cook). Exactly, so that——

GOVERNOR DUNNE. And that Constitution remains until it is changed by the Initiative.

Mr. DEYOUNG (Cook). Governor, I am speaking now not of the probabilities, because you and I probably would not agree about that, but I am speaking now of the legal power, and the legal power by which this thing may be done if this proposal should become effective. Is it not within the legal power and within the province of the Initiative, as proposed, to inaugurate a measure which abolishes the General Assembly altogether, and if that kind of a proposal were adopted, by 51,000 votes out of a 100,000 that might be cast upon it, would not that become effective and abolish the Legislature?

GOVERNOR DUNNE. The Constitution can abolish a legislature, yes, that is, the people can create a Constitution which says it will dispense with the legislature.

Mr. DEYOUNG (Cook). But Governor, will you answer my question?

GOVERNOR DUNNE. I am trying to.

Mr. DEYOUNG (Cook). As a legal proposition, if Proposal No. 133 becomes effective, would not that result in the abolition of the General Assembly?

GOVERNOR DUNNE. They could——

Mr. DEYOUNG (Cook). Yes.

GOVERNOR DUNNE. They could amend the Constitution so as to dispense with it.

Mr. DEYOUNG (Cook). And if we get all through, if Proposal 133 becomes effective, there is no distinction between the way a constitutional and a legislative matter may be inaugurated and carried and become effective in Illinois, the existing Constitution and the General Assembly to the contrary notwithstanding?

GOVERNOR DUNNE. They can change the Constitution that now exists and they can create a Constitution which dispenses with a General Assembly, yes.

Mr. DEYOUNG (Cook). Do you mean to say, Governor, that the Constitution of Illinois today can be changed with anything approximating the simple process which Proposal 133 makes effective?

GOVERNOR DUNNE. No, the great defect in the Constitution at present is that it cannot be amended at all.

Mr. DEYOUNG (Cook). Whatever may be the merits or demerits of the existing State Constitution, isn't it true that throughout the history of the republic and the history of every State in the Union, the changes in Constitutions have been made more difficult, except possibly in three or four of the Western States, than mere legislation; isn't that true?

GOVERNOR DUNNE. Well, I think that is true, yes.

Mr. DEYOUNG (Cook). That is true?

GOVERNOR DUNNE. Yes.

Mr. DEYOUNG (Cook). And the whole history——

GOVERNOR DUNNE. And I believe that making a Constitutional unamendable is a tremendous mistake.

Mr. DEYOUNG (Cook). That is quite another question, Governor, and I think we will probably agree.

GOVERNOR DUNNE. And making it difficult of amendment is a mistake. I think the people ought to be permitted to change both their laws and the Constitution.

Mr. DEYOUNG (Cook). You decline to make any distinction between questions or provisions of a constitutional order and those merely of a legislative order?

GOVERNOR DUNNE. I do.

Mr. DEYOUNG. And you will agree that the legislature under the present and under the two preceding Constitutions of Illinois, has acted of course as everyone knows, under the limits of the Constitution, and could not change the Constitution?

GOVERNOR DUNNE. Yes, sir.

Mr. DEYOUNG. That is all.

Mr. MICHAL (Cook). Mr. President and Governor Dunne: I have given serious thought to this matter and a query has suggested itself to me, and I shall therefore welcome and appreciate your answer; what effect would the existence of an initiative and referendum have upon the stability of our courts, so far as concerns an expression of opinion?

GOVERNOR DUNNE. Why, it would have the effect, of course if the courts had considered the Constitution as it existed, and then the Constitution was changed, the decisions rendered upon the Constitution as originally constructed, would not of course always be the same with reference to the amended Constitution, and therefore it would in some respects make trouble for the lawyers. In other words a decision rendered upon the Constitution as it existed in say 1870, if the Constitution was amended afterwards, it would not apply.

Mr. MICHAL (Cook). I don't think you got my question, Governor Dunne. I may be unfortunate in the choice of my language, but what I mean is, Judge, would the knowledge by the Courts of the fact that there is in existence an initiative and referendum in our law have any determined effect to cause them to deviate from the natural and logical course that they would otherwise pursue if this were not held over their heads; to illustrate, as the sword of Damocles.

GOVERNOR DUNNE. I don't think it would have any influence at all upon a judge deciding a case.

Mr. BARR (Will). Is it your view, Governor, that this Constitution ought to provide such a method of initiative that upon a petition of 100,000 voters in this State, and a vote of a majority of those voting on the question, that the entire Constitution of the State of Illinois could be set aside?

GOVERNOR DUNNE. If the proposal contemplated that.

Mr. BARR (Will). Yes sir. As to the executive and the legislature and the courts and everything else that is provided by the Constitution?

GOVERNOR DUNNE. If the proposition was broad enough to cover that.

Mr. BARR (Will). The situation would be such that at any time upon such a petition and such a vote, the entire Constitution of the State could be abolished?

GOVERNOR DUNNE. Yes.

Mr. BARR (Will). Judge, one more question. We have had some talk about the questions of public policy that were upon the ballot; I understood you to say that you and some other gentlemen drafted those questions?

GOVERNOR DUNNE. Yes.

Mr. BARR (Will). Did you make any inquiry or investigation to determine just what the people generally throughout the State wanted with reference to the questions that were to be placed upon th ballot, or where did you get your source of information or inspiration that caused you to draft those questions in just the way in which they were drafted?

GOVERNOR DUNNE. The popular vote of the people.

Mr. BARR (Will). No, no, Oh, when you drafted?

GOVERNOR DUNNE. Yes, I am talking about when I drafted them, the previous votes of the people.

Mr. BARR (Will). Did the people ever vote previously upon those questions?

GOVERNOR DUNNE. Oh, on the initiative and referendum? Yes, and on public ownership; yes, sir.

Mr. BARR (Will). On these questions of initiative and referendum, as defined in these questions?

GOVERNOR DUNNE. Not in the exact phraseology of these, but they had voted on the question of the initiative and referendum three different times, on the principle, and on the question of public ownershp they voted at least twice.

Mr. BARR (Will). After you had drafted these questions, what was your method in obtaining signatures for the petition?

GOVERNOR DUNNE. We called in as many men as we thought we could get interested in it; we called in leaders of certain organizations in Chicago and got them interested, and we had the questions printed and distributed among these people and tried to get them to go out and get the signatures. I was not there all the time of the campaign, I was out of the city.

Mr. BARR (Will). Judge, were there any meetings held or general discussions with the people in order to advise them of the contents of these petitions before they were circulated for their signatures?

GOVERNOR DUNNE. No mass meetings but conferences.

Mr. BARR (Will). Were there signatures sought generally on the street by girls and young men and persons generally?

GOVERNOR DUNNE. I think so.

Mr. BARR (Will). Were there certain persons paid so much per name to get signatures to these petitions?

GOVERNOR DUNNE. There may have been, I do not know personally.

Mr. BARR (Will). Was there any opportunity for the persons to whom these petitions were submitted for signatures to suggest modifications or changes in those questions?

GOVERNOR DUNNE. No, I do not think so. Of course that would be very impracticable. If any of the petitions were changed in phraseology we could not get the necessary number of petitions. They had to be identical.

Mr. BARR (Will). How did you and your asistants arrive at the conclusion that the great mass of the citizens of Illinois wanted the initiative and referendum and gateway amendment provisions as you wrote them in these provisions and as they afterwards appeared in the ballot?

GOVENOR DUNNE. We judged from the votes in the past on cognate or similar questions.

Mr. BARR (Will). Had questions been submitted similar?

GOVERNOR DUNNE. Not identical, but questions involving the initiative and referendum had, and questions involving public ownership had.

Mr. BARR (Will). I understood you to say in your paper that you felt that the great interests as a rule were opposed to the initiative and referendum?

GOVERNOR DUNNE. I think so.

Mr. BARR (Will). The largest percentage of votes for these propositions in proportion to those voting was in Chicago, was it not?

GOVERNOR DUNNE. I think so.

Mr. BARR (Will). Is that generally recognized as the center of the great interests of the State of Illinois?

GOVERNOR DUNNE. Yes, Chicago is the nerve center of the State of Illinois and of the northwest.

Mr. BARR (Will). And in that section where the great interests are supposed to be predominate the largest vote in proportion of those voting was obtained in favor of these particular propositions, is that true?

GOVERNOR DUNNE. Yes, but I think that there are few signatures that came from those interests in those petitions.

Mr. BARR (Will). In the country is it not true as a matter of fact that the propositions lost by about 24,000 votes, outside of Cook County?

GOVERNOR DUNNE. I think so.

Mr. BARR (Will). You conclude therefore that the interests had a greater influence in the rural districts than they had in the territory of Cook county?

GOVERNOR DUNNE. No, I do not think so. Of course in a congested community where millions of people live it is easier to get signatures than in the country where you travel maybe a half mile to each homestead.

Mr. BARR (Will). The fact is in the country districts the proportion of those voting at the elections, even for the delegates to this Constitutional Convention was very much less than in the City of Chicago, is it not?

GOVERNOR DUNNE. I do not know.

Mr. BARR (Will). Have you examined the returns?

GOVERNOR DUNNE. Not in detail. I understand that the vote was adverse outside of Cook county and favorable in Chicago.

Mr. TAFF (Fulton). How many, if any of these petitions were circulated outside of Cook County?

GOVERNOR DUNNE. I could not tell you.

Mr. TAFF (Fulton). Were any of them?

GOVERNOR DUNNE. I could not say, I did not attend personally to the distribution.

Mr. MILLER (Cook). Governor, what organizations did you have in mind when you said certain organizations were asked to circulate these petitions?

GOVERNOR DUNNE. There was an organization they called the "Dunne-O'Connell Organization," we had leaders of that organization.

Mr. MILLER (Cook). Any other besides the Dunne-O'Connell Organization?

GOVERNOR DUNNE. Yes, I think the womens organization, the Political Equality League, and I think some teachers' organizations.

I have a note here that calls for my immediate attention and if there are no further questions I will step down. Thank you gentlemen for the courtesy shown. (Applause.)

CHAIRMAN DOVE. The next speaker who has been invited to address the Committee is Mr. Duncan McDonald, the president of the Illinois Federation of Labor. (Applause.)

Mr. McDONALD. Mr. Chairman, members of the Committee: I might say in the beginning that those that I represent, the organized workers of the State have on every occasion, to my knowledge, supported the proposition of the Initiative and Referendum. That has been their attitude for many years, and reiterated time after time in conventions. We felt that even the Constitution itself, which will be finally passed on by you gentlemen, will be submitted for ratification by the people. We think that is a wise provision. We believe the people of the State should have a right to determine what shall be in their Constitution when it is finally ratified by them. They will have the right to accept or reject it.

We noticed some time ago in New York the people were not satisfied with the Constitution adopted and they very promptly vetoed it. That principle seems to be injected in the adoption of Constitutions generally. We think it is correct. In the next place we feel the people have spoken on this matter on three separate and distinct occasions. They said they wanted the Initiative and Referendum. Some stress is put on the question that in the recent election the vote was not as heavy in favor of the I. and R. as on former occasions. I do not know what the reason was entirely, but it was very light in many districts. A man from a certain district told me that in a certain precinct there was not a single vote recorded, not even the judges and tellers are on record as having voted. In some districts the vote was light. The people did not give consideration to the matter for some reason, I don't know, but speaking for the organized workers of the State, when I asked why the vote was not heavier, a good man said, "What is the use, we voted twice by an overwhelming vote on this proposition and apparently no attention was paid by the legislature. What is the use of continually voting for the I. and R. and having our wishes entirely ignored by the General Assembly?"

Some others said they did not think there was any use. That accounts for the general attitude on the matter.

Now, at the present time I think you will quite agree with me that there is a very great feeling of unrest everywhere. Last summer at one time when I was in Chicago there were 44 strikes on at one time. I never had seen a situation which was quite as acute, and in endeavoring to find out what was responsible, there seems to be a general complaint. At the close of each session of the General Assembly it has become the duty of those in charge with representing or trying to represent labor in the State to send out statements; that duty has not devolved on me yet because I am finishing my first term, but statements are sent out telling about the different bills in

the General Assembly and those having failed of passage. I have had occasion to attend many, many meetings when the report is read and I could not describe the feeling expressed by those people, and that gave rise for a very urgent demand to legislature for themselves insofar as the Initiative and Referendum will give them that right.

Considerable stress is laid on the fact that the best judgment will not be exercised by the people, if they come to petition and try to secure some redress through the Initiative and Referendum. That is entirely possible, but we believe the people should have as much right to make mistakes as the legislature does, and we think that they quite frequently make mistakes in legislative assemblies, and while the people might make some mistakes in their action on the I. and R., I do not think the mistakes would be any more glaring than the legislature has made when they failed to incorporate into the law some of the ideas they had in mind, and we believe the people should be trusted with this matter. They will have to bear the brunt of their own mistakes.

Now, the question has been asked, or reference has been made as to the attitude of other states. I hope you won't question me very much on constitutional provisons so far as the legal phrase is concerned. I am not a lawyer, I never got admitted, but I have discussed with men in different states representing farmers and labor groups as to the operation of laws in those states from Washington and Oregon and number of other western states, what their opinion was and the general expression was that "While mistakes have been made we will not surrender the I. and R. in this state," and I think it is an indisputable fact that in not one of the 22 states that have the I. and R. in some form or another has there been a serious attempt to set aside the principle of the I. and R.

We may disagree as to some details in the matter, but the general principle of submitting to the people of any state matters of importance to them is of so fundamental a character that we feel no real objection can be made.

Of course we have always had two sides to every question, I presume ever since the beginning of time there have been two sides to every question and I presume there always will be. There has always been a force holding back and another force trying to forge forward, and between those two forces as a general proposition we move forward instead of backward. We feel Illinois should take its proper place in writing its own Constitution and give the people the right to pass judgment on these important matters.

I know in speaking for the people I am closely associated with, they want the right to at least attempt to get before the people of this State measures they are vitally concerned in, and have the people pass judgment on the matter. They have such an abiding faith in the people generally that they feel they will be able to win them over so far as the application of the merits of the I. and R. are concerned. They have from time to time gone on record in favor of the I. and R.

On many occasions men have said to me, "Now, don't you think the people will load up these propositions, too many questions to be submitted," and I have sought to get all the information I could on that matter and I found in some instances there were quite a number of matters submitted, and on the whole, take it as a general average the number has been great, and while that may be expensive in submitting them, I think the question so thoroughly democratic that the principle involved far outweighs any objection that may be raised to it, and I think we can all agree in the final analysis the people are right generally and will be found right on all important questions.

Another question has been raised frequently: One of our papers has been laying particular stress on that one matter, and that is in some districts the fight on the I. and R. was light and the representatives say we are not under any obligations to support this proposition. There is a difference of opinion on that matter, and certain districts that are not industrial districts the people are not in sympathy with this proposition, but when we vote for a Governor of Illinois or United States Senator, if Cook County or one particular part of the State says we want a certain man for Governor

and another part says we don't want him, we cannot pass on whether he can be Governor or not; he is Governor of the entire State by reason of securing that number of votes necessary to elect him to that position. We believe the people of Illinois have spoken on this matter and the majority of the people favor this principle as shown in the three times they voted on it. They have a right to make mistakes, if you call it mistakes, and the people of this State will expect this Constitutional Convention to give them relief along that line.

Referring again to the labor situation: Bitter complaint has been made in here and outside of lobbies coming before the General Assembly representing different sides of questions. I have heard a great deal of criticism of labor representatives, but those of you who are members of the General Assembly well know I did not bore the committees very much, and this offers a way to get away from that matter in a large measure. If the people can get questions of prime importance to them before the people of the State of Illinois to be voted on they would not have occasion to appear before the General Assembly and try to plead with them and often sometimes threaten them with defeat if they did not pass their particular measure. I think as a matter of clean politics you would probably accomplish more along that line with the I. and R. provision. I am a resident of Springfield and know some of the methods employed in lobbying. I have heard complaints made that the third house was frequently larger than either of the other two. This offers a way out of that situation; these people who are here are representing special interests; the men from labor are representing their group and men representing some commercial interest represent their group and they resort to different means of accomplishing their purposes, and this will in a measure obviate that situation and bring about better results.

It seems to me as a matter of general principle we should not be required to surrender as citizens of Illinois so far as our right to legislate is concerned when we go to the ballot box every two years and vote for our representatives, and the man who gets the necessary vote comes here as our representative and then we are through entirely for two years more. We surrender our rights as citizens for two years to the legislators and this is a representative form of government.

We think the people are trying to get beyond what they were when they adopted the present Constitution, and now they want to legislate for themselves whenever they please if they can get their neighbors and friends to agree with them on the matter, and instead of surrendering their rights when election day is over we want to retain our rights because democracy means much, and this is fundamentally a democratic proposition, and the people should have the right in my opinion to express themselves on all questions of public policy throughout the year. Some may disagree as to the percentage required and that sort of thing, but those are matters of detail and they must be secured so the people will not be in the position that they find it absolutely impossible to accomplish anything through the I. and R.

As a matter of fact pledged as we are to majority rule we find in a great many instances that we have minority rule and we believe that the I. and R. will eliminate this phase of minority rule. Some may ask what I have in mind. I have known of instances here and elsewhere where both Houses of the General Assembly voted in favor of certain propositions and in some cases the Governor approved the measure and then on a test case the matter goes to the Supreme Court and the Supreme Court is about equally divided on that proposition and one man has the power at that time to defeat, not only the efforts of the people, the efforts of the General Assembly, but the powers of the Governor when he voted for the measure, and that in my opinion is rather giving too much authority to one individual. Instead of tending towards the democracy it seems to me it tends in the other direction.

I won't take up much more of your time except to say this in a general way, that those I am associated with, the various trades union have authorized their officials to work for and in the interest of the initiative and

referendum, and that being true, there is no option in the matter, but aside from the instructions given them, yet as a student of political and economic conditions, to some extent, a graduate of the school of hard knocks, having been a miner for fifteen years, it seems to me this is fundamentally and vitally a proposition for the people of this State, to give them the right to express themselves without being subject to send lobbying committees here and the possible defeat in the end when they were trying to secure some real meritourious measure.

I won't say anything further except a matter came up this morning in which my name was mentioned, and some criticism of some speech I was supposed to have delivered recently, and I was not aware of it, and if the gentleman would like to raise it now I will be glad to explain my position in the matter. If there is some criticism of what I had to say then I would be glad to answer that question now.

Mr. GALE (Knox). I raised that question this morning; I wanted to ask if you read the Herald and Examiner of this morning in this report of what you are said to have stated yesterday at the Hotel Morrison, at the annual meeting in the Hotel Morrison, have you read that statement?

Mr. McDONALD. Since coming here.

Mr. GALE (Knox). Is that a correct report?

Mr. McDONALD. No.

Mr. GALE (Knox). Then so far as any remarks I made may be considered criticism of you of course I withdraw because I made them only on the supposition that you were correctly quoted in the newspapers, and particularly, Mr. McDonald, I wanted to call your attention to what I deemed subject to criticism, where you are reported to have said, "If this last plea fails before the Constitutional Convention I can not longer be responsible for any action that labor may take." I merely quote that in order to call your attention to what the matter was. If you say you were misquoted I am sorry I said anything about it.

Mr. McDONALD. If you will permit me I will explain my connection with this matter. It was not yesterday or any time recently. When I saw this statement I was rather at a loss to know where they got it, but a gentleman connected with this paper told me it was a meeting held some time last September or thereabouts. I had been invited by Mrs. Treadwell who preceded me on this stand to appear before the Gateway Amendment League in Chicago at the meeting at the Hotel Morrison; I think it was in September if I remember correctly; but the statement I made was this, and I want to say in that connection I would not like to have some of the Chicago papers act as sponsors for me, and I would not like to act as sponsors for some of the things they say in the papers. We had petitioned the legislature on many, many occasions to get redress of our wrongs, and we had utterly failed in trying to write into the statutes of this State measures that we knew would save human life in the mines of this State. I said, "You can imagine the feelings of the individual who recognizes the wrong he suffers under and he makes an honest effort to secure remedial legislation and he fails, you can imagine the sentiments of that individual." So far as my being responsible for labor, I would not like to be held responsible for labor, nor have I any right to say anything like that. There was no intention on my part to say they would do something terrible if they did not do so and so, I did not make the statement.

Mr. GALE (Knox). This column in the paper is not dated, but it appears in the paper of today and it says, "Attending the annual meeting were representatives at the Hotel Morrison, almost every class of people in the State," and I thought it was worth considering at this time. I had some grounds for supposing this was said, and this was a news item instead of a general discussion.

That leads me to two or three questions I wanted to ask: When any measures under this proposed initiative and referendum were to come before the people, is it not true if you were to get a vote of any size comparable with the popular vote of the people, which I think you will admit really ought to be, would not the people have to depend on a very large

extent to what was said in the newspapers to get their information therefrom? That is true?

Mr. McDONALD. There are certain groups who do, certain other groups have their own means of conveying information to their members. For instance if this matter was pending it would be natural that certain groups that were interested in the I. and R., labor unions and the like would probably send out suggestions to their members calling attention to these matters, so while on the whole your statement is correct, they get their information largely from the newspapers, they do not rely entirely on that, as is demonstrated in elections in Chicago.

Mr. GALE (Knox). If you were going to get out a large vote you would have to rely on them to some extent?

Mr. McDONALD. Yes, surely.

Mr. GALE (Knox). You spoke of the lobbying and the effect of it: I want to call your attention to something that seems to be bearing on that line. I asked Governor Dunne about the paid advertisements of the initiative and referendum which appeared on Monday, November the 3d, and the Governor said he did not know how those were paid for, then when Mrs. Treadwell spoke here she said the total funds of the I. and R. and Gateway Amendment League were $180, and that she handled the fund. Now, personally I believe and I believe every person who heard her believes Mrs. Treadwell, and we also know such advertisements as these could never have been paid for out of that sum of money. Does not this indicate therefore that on any I. and R. proposition, the same lobby, I think that is a fair way to put it, would use the newspapers precisely as it was used in this case, and if that be true, would not the result of any election under the I. and R. depend to a very large extent upon the side which could use the most money in advertising in the newspapers in Illinois, don't you think that is a reasonable fear of the I. and R.?

Mr. McDONALD. It is entirely possible in Illinois, but there are certain portions of Illinois it would have just the opposite effect, and I think you know what I have reference to when I say that. May I enlarge on that just a moment. In Chicago there have been a number of matters summitted, and I was in Chicago just before a very important matter was voted on last Spring, and on every bill board in the street there were certain signs up advising the voters to vote thus and so, and the newspapers were carrying advertisements and press notices and editorials admonishing the people to vote for thus and so, and I said to one of my friends, "I cannot see any possibility of that being defeated with all these forces working in its favor," but when the result was announced the people had repudiated the proposition in spite of the fact of all of the newspapers mentioning it and the street cars and "L" cars and the advertising all over the city. So that demonstrates that the newspapers are not able to carry out certain ideas when not in conformity with the peoples conception of democracy.

Mr. GALE (Knox). How then do you think the people of the State of Illinois would get their information to make up their minds, and by the people I refer to such people as you and I, and to all the other people in the State; I do not refer to the people in any derogatory sense. I think you are right when you said that if you give the people time they always vote right. How else would we, the people, get information about these things, how could we do it otherwise?

Mr. McDONALD. I want to be perfectly frank with you: If I knew certain papers were advocating certain propositions, I, without giving the matter any serious consideration, it is quite likely I would vote the opposite way, knowing the paper's position on certain matters. I would look into the matter and weigh the proposition as I would if I were going to vote for a man for public office; if I could enlighten myself I would do that, and then before I would vote I would decide the best one to vote for of a given proposition, and that would be my way; I believe that a great many people weigh those matters more carefully than some of us give them credit for.

Mr. GALE (Knox). You do not think there would be any danger under the initiative and referendum of the same sort of thing happening that

there has happened under the direct primary for State offices, to-wit, that such an enormous campaign fund is required now to place a man's name properly before the people of the State of Illinois, that it has deprived men of ordinary means of a chance to run for office. That comes pretty nearly being true, doesn't it?

Mr. McDONALD. I think so, yes.

Mr. GALE (Knox). Don't you think that the same thing would happen in the case of the initiative and referendum?

Mr. McDONALD. There is some possibility, but my experience, knowing the forces opposing the initiative and referendum in this State and other states. I am inclined to believe they would not be trying to favor the I. and R., but trying to drive it out of business; the fellows who furnish the large amounts for campaigns would be opposed to the I. and R. I quite agree with you on what you said about men running for offices, and I think—we do not like to admit it, but as American citizens we know that frequently the man with the most money, who is willing to spend the most money gets the job.

Mr. GALE (Knox). Isn't that really because that is the only way for a man to get his name before them, isn't that the real reason?

Mr. McDONALD. Well, maybe due to that fact, that is the sad feature about it, but the man that is making an honest campaign should lay his merits before the people in a different way than by billboard advertisements.

Mr. GALE (Knox). Could he do it cheaper?

Mr. McDONALD. I think he could, and I think the intent of the corrupt practices act was intended to eliminate that very phase you spoke of, and it is rapidly reaching the point where no one but millionaires can fill certain positions because other men cannot afford to make the campaign, and it does seem to me that should be a function of the legislature to prevent that sort of thing you speak of now, and we all have in mind the case that is going on in Michigan right now.

Mr. GALE (Knox). Exactly, but do you think it would be very much cheaper if you, for instance, were a candidate for a State office, and instead of using the newspapers and billboards for advertising, were to attempt to go into every county in the State and hire a hall in that county and speak before the people, wouldn't you by the time you got through paying your expenses for traveling and so forth, don't you think they would be equal to the other way?

Mr. McDONALD. I cannot speak from any actual experience of making expensive campaigns, I don't think I will ever be confronted with that, but I think it might be equally expensive.

Mr. GALE (Knox). That is entirely aside from this question, but wouldn't you be in exactly the same situation, we would be in the hold of the interests that would spend the money.

Mr. McDONALD. Yes, if the interests thought it was to their interest to support the initiative and referendum. The interests are absolutely standing in opposition to the initiative and referendum and the newspapers that speak for the interests are opposing the initiative and referendum.

Mr. GALE (Knox). Then they would be put in the same situation in fighting it?

Mr. McDONALD. In the final analysis while they might defat a measure once or twice, eventually the will of the people is going to triumph on that matter as in other matters.

Mr. GALE (Knox). Hasn't your experience been, and isn't it true, that in Illinois where the will of the people stands for a thing, it may be defeated once or twice, but where it continues to stand for it, has not the result been that they have been able to get through the legislature of Illinois measures they want as well as compared with any other state in the Union?

Mr. McDONALD. I won't say that is true, especially in view of the time that was taken on this very proposition, 1902, 1912 and still no action taken looking towards bringing that about.

Mr. GALE (Knox). That will to get it done would have to continue until the majority of the legislature were elected in favor of it, wouldn't it?

Mr. McDONALD. Unless we can get redress from the present Constitutional Convention, I presume that method will have to go on indefinitely, if the coming legislatures view the matter as the past legislatures, then we will have to say to the people there is no relief from this situation.

Mr. GALE (Knox). I want to ask you if it is not a fact that in all measures affecting the public welfare, such as Mothers' Pension, Workmen's Compensation Act and so forth, if they have not been as favorable to the people and if they have not been passed as quickly in Illinois as they have in other states where they have the I. and R., is not that really true?

Mr. McDONALD. No; the State of Washington had a compensation law and many other measures in the interest of labor before we could get them on the statute books of Illinois, particularly the Compensation law, it was a much superior measure than our first makeshift measure we were compelled to get through here on the last night of the last day of the session after a strenuous campaign all through the session, and then it was only optional, not compulsory.

Mr. GALE (Knox). Do you think the compensation law of Washington is better than the Compensation Law of Illinois?

Mr. McDONALD. The compensation law of Washington as first drafted was far superior to the first Compensation Law of Illinois.

Mr. GALE (Knox.) You would not say that of the present Compensation Law?

Mr. McDONALD. No; the law has been improved. I was speaking of the time consumed in trying to get the other measure through as compared with Washington where they had the I. and R. There is no State in the Union where as much legislation was put on the statute books at one time as was put over in a recent session of the North Dakota legislature, so far as labor is concerned. They gave them every bill they asked for, and they secured more than in any other state in the Union in ten sessions.

Mr. GALE (Knox). Was that through the legislature or by the I. and R.?

Mr. McDONALD. Through the legislature.

GOVERNOR DUNNE. After the I. and R. had been enacted.

Mr. McDONALD. After the I. and R. had been enacted. I thank you. (Applause.)

CHAIRMAN DOVE. Our next speaker is deeply interested in these subjects and to their consideration he has given very generously of his time. Some few years ago he was president of a like Constitutional Convention in the State of Ohio. Permit me to introduce Doctor Herbert S. Bigelow, who will now speak to you.

Dr. BIGELOW. Mr. Chairman, members of the Illinois Fifth Constitutional Convention:

Being an outsider here, on the invitation of the Chairman of your committee and at the request of Mr. McDonald, President of the Illinois Federation of Labor, I take it that I shall be excused from any discussion of State matters. And at this late hour in the day and after such a thorough examination into the matter you perhaps will be glad to have me confine myself to a very brief statement as to the attitude of our people in the State of Ohio and how we came to adopt this measure.

The people of Ohio acted as they did for the same reason I suppose that the people of every other state now, nearly for the last 20 years that have adopted new Constitutions of revisions of old ones, have insisted upon the incorporation of provisions for the Initiative and Referendum. The people of America seem to have gotten the habit of insisting upon this type of Constitution. In the last eighteen years there have been 26 votes, popular votes on constitutional amendments providing for the Initiative and Referendum. In every vote with one exception the people gave a majority of those voting on the measure to the proposal, although in one or two other cases the majority was not the required majority of all the votes cast at the election and those resulted in defeat of the measure, a remarkable record of poularity. Whether the people were right or not is a matter on which we will differ.

Moreover, in the twenty years nearly that the initiative and referendum have been in use in these states repeated efforts have been made to curtail their powers; amendments have been brought forward seeking to take away the power granted. In every single instance these attempts have been defeated by a popular vote. Nor is that all. In many of these states after the amendment was adopted, amendments were brought forward to enlarge powers of the initiative and referendum, and in every single instance these measures looking toward an enlargement of the powers of the initiative and referendum were adopted. Perhaps the last one, certainly the last one I have in mind was in the State of Ohio last year. I mention it because of the question raised this morning as to the right of the people to have a referendum vote upon acts ratifying Federal amendments as well as upon acts of ordinary legislation. The people of the State of Ohio did by popular vote enlarge their powers of referendum and make them apply to acts and the ratification of Federal amendments, and in the other states there have been many such cases. For instance, in the first place the initiative and referendum applied to state law, amendments were brought forward applying them to local legislation as well; later amendments were brought forward applying them to constitutional amendments; not only is it true throughout the country generally that its principle meets with almost unexceptional success at the polls, but in the State of Illinois, in 1902, in 1910 and in 1919, and now you are asked and I have been requested to speak for the organized laboring men of the State in this hearing and you are asked this, to adopt a reasonable proposal and submit it separately so that if after having said they wanted this in 1902, having said they wanted this in 1912 and having said they wanted this in 1919, if when they come to vote upon your work, they vote for the measure, it will then at last become a part of the fundamental law of the State.

It seems to us that reasonable time has been given to let the heat of passion dissipate itself; time has been given for deliberate judgment it seems to us, and that after four or five votes extending over a period of twenty years the people of the State cannot get what they want, then I should not call it truly representative government, and I believe the members of this Convention will take that view of the matter, because I dare say you have considered the technical function of a Constitutional Convention, which is not to make laws, but which is to formulate the desires for change so far as you are able to anticipate them and refer them to the people in order that they, by their votes, may adopt them if they see fit. The members of the Convention are not entrusted with the powers of legislation. When a Constitutional Convention is called power returns to the people and then popular sovereignty is exercised, and I say, if you agree with me as to this function of a Constitutional convention, then the only honorable thing you members can do is to first ask yourselves what really do the people want by way of a change, formulate that wisely and submit it to them in order that they may exercise their sovereignty, as it was intended that they should on the assembling of the Constitutional Convention

Now, when twenty years ago nearly the first initiative and referendum measures were formulated and incorporated in state constitutions the matter was new. Mistakes were made and these mistakes have been corrected from time to time and the people have grown in exprience, and they are using these instruments more wisely, it seems to me. It is not so much a matter of experiment now as it was in 1912 when we adopted it in Ohio, and I will not speak for the other states, but only for Ohio. I, as president of Ohio's Constitutional Convention sat in the chair and listened to a debate for three long weeks on this very measure and I heard the members express the same fears. I heard the same questions asked, the same imaginations were at work as to the things that might happen if this thing were done, but in spite of these fears the people of the State of Ohio did this thing, and I do not think it can honestly be said that any of these imagined evils have come to pass. I think I might say that the

system is now recognized in Ohio as the best thing that our constitutional convention did, and it would be quite hopeless for anyone to undertake an annulment of this provision of our Constitution. It is not thought of, we are all satisfied with it.

The first people to use it was the Chamber of Commerce of the City of Cincinnati. These gentlemen who maintained all through our Convention a lobby against it, and said it was dangerous, were the first ones to make use of it in bringing forward by initiative petition providing for the classification of property for taxation. The measure failed because the people did not agree with them, but at any rate they had the chance, and they were the first to use it. We did not adopt this provision in Ohio because we believed the members of our legislature were more corrupt than our people; we did not adopt it because we believed our representative system of government was a failure, but our exprience taught us that there are times when representative government miscarries, and it seemed to us wise to throw about our representative government these safeguards and protections.

My city is peculiar among all the cities of the world, perhaps, in that she owns a steam railroad 320 miles long running from Cincinnati across two states of the Union to Chattanooga, Tennessee, running through seventeen tunnels, across one of the highest bridges in the world, a property that belongs to my city just as much as does the city hall. This road has never been operated by the city, but operated under lease. It was in 1896 that the old lease was about to expire. Mr. Morgan's railway syndicate having the lease of the road sent representatives to the City of Cincinnati to tell the members of our City Council that they declined to renew the lease, and that instead they had instructions from Mr. Morgan to buy the road. This was the first suggestion that had ever been made to sell our road, and it came to us like a thunder clap from a clear sky. They would not consider a lease but they would buy it. The members of the City Council had no commission from the people to sell that road, and yet what did they do? They began dickering with these men at once. They said, "Well, what will you give us for the road?" Now, the Cincinnati, Southern Railroad cost us 30 million dollars. They said we will give you 19 million dollars for the road. Moreover, they proposed to buy the road under a contract which was to run for 100 years, and according to its terms they were not to have to pay one penny of the principal until the end of the 100 year contract, yet what did the members of our City Council do? They signed the contract and agreed to sell the road on those terms, but it so happened that years and years before in the State legislature when the enabling legislation was passed permitting the City of Cincinnati to issue bonds to build the road a little provision had been slipped into the law and actually unnoticed until the men came to buy the road. After they got well in their negotiations with the City Council they discovered that the old law said to the council that they might issue bonds to build the road; it was a general law, but as a matter of fact it applies to Cincinnati only, and it said the City Council might sell the road, but this was the provision: "In no case was the sale to be completed without a direct vote of the people of the city." So they started out to steal a railroad and they discovered they could not get it without getting the consent from the very people from whom they had to steal it. Of course they were in an embarrassing situation. It would be embarrassing, wouldn't it, for the thief who breaks into your house at night to be compelled to wake up the family and have a referendum vote on whether they wanted to be robbed. Nevertheless, they tried it, and on April 14, 1896, the people of Cincinnati went to the polls and voted on the question of selling the road, and they defeated. They had too much sense to sell a 30 million dollar road for 19 million dollars on 100 years time. They voted it down, and it is only by virtue of that referendum clause put in the law long before that we have our Cincinnati Southern Railroad today. Subsequently it was leased under better terms than before, and I asked the president of the sinking fund trustees of the Cincinnati Southern Railroad what this road will be worth to the City of Cincinnati at the termination of

the present lease, and whereas these men wanted to give us 19 millions for the road in 1896, at the termination of this lease the road would be worth 214 million dollars, and that is what we saved, but we got the right to vote on the question as the result of a mere accident, so far as we were concerned. We said we thought it would be wise to provide in the Constitution whereby in case of emergency the people might hold up an act of their representatives and put it to the test of public opinion by a direct vote at the polls and so we did.

We had another experience. It was in the same year, 1896, that the State legislature of Ohio gave the city councils in the State of Ohio a right to grant fifty year street car franchises. Now, whether that was wise or not, it was unpopular—so unpopular that every man who voted for that franchise coming from Cincinnati was defeated at the next election, so unpopular that the next legislature repealed the fifty year franchise bill, so unpopular that in the house, on the very first day of the session, the rules were suspended and the first steps were taken to remove that odious law from the statute books of my state. It was done emphatically and dramatically, such was the protest of the people of the state against that measure.

Under the Constitution that we have, and your own is of the same type, when the legislature passes acts, they are laws for two years, in spite of anything that the people can do. So with this law it was in force, and the law was a grant of power to city councils anywhere in the state to make grants of fifty year franchises.

Now, it so happened with the people of Cincinnati that the City Council, in this same year 1896, this same City Council that tried to sell our railroad took advantage of the power granted by the law and made a grant of the franchise. We repealed the law the very first day we got under our representative form of government, but we couldn't repeal the franchise; that was a contract.

What did we do? We locked the barn door after the horse was stolen. That is all we could do. But if we had had at that time the type of Constitution that we now have, we could have, in ninety days' time, filed a six per cent petition against that law, and that would have held it up until the next following election, when the same people who voted against the men who passed the law could have defeated the law itself, and thus they would have defeated the legislation before it ever became effective, so that no damage could have been done under it.

Now, that is the story in Cincinnati at that time. Without these powers of the initiative and referendum, the City Council made that grant of the fifty year franchise. We did not like it. What could we do? Nothing. We had to lump it.

A similar thing happened in Toledo, about the same time. The street car franchises there had eleven years to run. Representatives of the corporations came into the council one night and said, "We want a twenty-five year extension of our franchises." The people said in astonishment, "Your franchise does not expire for eleven years and yet you are asking for an extension," but they pressed their claims. This was an opportune time, apparently, for them. What did the council do? The council granted that twenty-five year extension, in face of the fact that the franchise had eleven years to run. But "Golden Rule" Jones was mayor at the time. Jones vetoed the franchise. That didn't worry them. They said, "We will pass it over the mayor's veto." So the night arrives. Now, what did the people of Toledo do? They didn't lump it as we did in Cincinnati, but that night the streets grew black with an angry mob that reached for blocks around the city hall. Men pushed their way up the corridors of the city building, they broke open the doors of the council chamber that had been locked against them, and they told those councilmen if they dared to pass that franchise over the mayor's veto, they would find themselves dangling from the lamp posts of the city streets that night. So they saved their franchise, but, my friends, I don't approve of that sort of thing, and I don't think it is wise to leave an American community with such a Constitution that it should have any

temptation to resort to mob violence in order to keep its supposed representatives from turning public property over to private citizens.

I mention that illustration, not to approve of it, but by way of contrast with one other illustration. It was about the same time in the City of Grand Rapids, Michigan. Grand Rapids, Michigan, was the first city in the United States to appreciate the fact that if you are going to have real representative government, it is wise to be careful in the machinery by which you provide for your government. The people of Grand Rapids, the first people in the United States, in framing their powers of government under their city charter, made a provision like this: No act of this council shall take effect until thirty days after the mayor has signed it, and if, during that period, a petition signed by 8 per cent of the voters is filed demanding to vote on the act, the petition suspends the act, and it must wait until the people have an opportunity to pass upon it. Now, it so happened that it was the Standard Oil interest that sought a franchise before the city council of Grand Rapids soon after they got that new type of charter. These gentlemen didn't understand what kind of power that was, and so they proceeded, as usual, to do business with the members of the city council. What did the members of the city council do? Oh, they granted the franchise, and the Standard Oil Company got what it wanted from the council, but here was a new type of charter. These councilmen didn't have the last say. So what did the people of Grand Rapids do? They didn't lump it as we did in Cincinnati. They didn't organize a mob as they did in Toledo. They had a peaceable, a legal, a constitutional means of protecting their property. For when that franchise went through the city council, they began to circulate a petition: We the undersigned citizens of Grand Rapids, Michigan, demand a popular vote on this franchise. The members of the city council did not wait for the referendum vote, but, at the very next meeting of the city council, the action was rescinded, and that is all that has ever been heard.

That referendum vote is like a policeman's club. It is effective oftentimes, even if not used. The mere fact that the fellow has it around is enough.

Mr. MAYER (Cook). Have you the Ohio Constitution?

Dr. BIGELOW. I will answer that in a moment. Just a word in conclusion as to the philosophy on which we have based our legislation in Ohio.

We belong to a great race. The Roman historian wrote with admiration of those old folk meetings through which our ancestors were functioning and enjoying their liberty when the Roman legions invaded their forests of central Europe, and when our forefathers came to these shores, what did they do? They established on these shores an institution that was native to their genius, the New England town meeting, and for many years we ruled ourselves through the New England town meeting type of government. There we had no representatives; all the people in the town coming together once or twice a year, or as often as they chose, each having a voice and a vote in the meeting and deciding their public matters in common assembly, but as the country grew in population and the population spread out over a vast territory, this New England town meeting form of government ceased to be feasible. It became necessary to make some new adaptation, to make some change in the institution of government to suit new conditions, and so we abandoned the New England town meeting type of government, and we adopted the representative form of government, and I don't see how it would be possible to administer government over so wide an area and with such vast population without this type of a representative form of government. So far as I can see, it is absolutely essential, but all students, I think, of government agree that when we abandoned the New England town meeting type of government and established in its place the representative form of government, while it was necessary to do it, yet we lost something that was very precious in the old New England town meeting. We lost that sense that the people must have had of closeness to their government. We lost some thing of that direct contact with government that makes the government always so vital and sound, and it seems to us that the finest problem that Constitution builders have is this: How to preserve all the essential

features of the representative form of government, and still revive and keep that precious thing in the New England town meeting government, and it has seemed to us that wise provisions for the Initiative and Referendum accomplish that happy blend of the two.

The initiative and referendum operate much, it seems to me, as a carburetor on a gas engine. No doubt you have had experience of your engine going bad, and you have chugged along and jerked along the roads, the machine almost tearing the heart out of you until your nerves were all unstrung, and you perhaps managed to struggle into a garage and found a skilled mechanician, and he listens to your machine, and then he smiles and he says "Oh," and he takes the carburetor and moves it a few hairs' breadth, and that is all. Then it runs like a sewing machine again. You don't get satisfaction out of a gas engine unless you have a proper mixture of gas and air, and the carburetor is the instrument that controls the mixture. You don't get satisfaction out of government unless you have a proper mixture of democracy on the one hand and the representative quality on the other. It seems to us that the initiative and referendum is a wise device, a kind of carburetor of government, by which you the proper mixture and get good results in government.

I want to say I may be failing to do team work here this afternoon, or to make the speech that perhaps some may have expected of me, but, gentlemen, I am looking into your faces—faces of men who carry on your shoulders the responsibility that I and 118 other men had in the constitutional convention of Ohio eight years ago, and I feel too keenly your responsibility and my responsibility in speaking to you, and the opportunity that I have of addressing you is too sacred, to deviate one hair's breadth in my advice from what I consider to be wise and true.

Now, when these measures were published, questions were put upon the ballot. It was impossible to write a constitutional amendment and put it on the ballot. All that could be done was to state the question and give it a sufficient definition so that there would be a general understanding as to the substance of what was desired.

I don't think the people of the State of Illinois are going to hold any member of this Convention recreant to his trust who honestly believes that it is his duty to frame constitutional provisions deviating from the language of this public policy ballot, but, my friends, though you might differ with me, I would regard you—or I will put it the other way, because we don't want to judge each other. I would consider myself recreant to the trust that you have, if I were a member of your Convention, and though I would be quite free to frame an amendment deviating in particulars, in language and in provisions from the ballot definition, yet I would feel myself recreant to this trust if I were to vote into the provisions submitted to the people any one of several things. One of them is this: May I say that it is true that the public utility interests of my state maintained for the six months of our Convention a very active, a very aggressive lobby, seeking to throw all the monkey wrenches into the machinery they could, and I happen to know that one of the things they tried to get into our provision was this: That when measures are submitted to a direct vote of the people, it shall be required that they must receive to be adopted a majority of all the votes cast at the election, all the votes cast for candidates at the election. Then they would say on the floor of our Convention, in defense of that provision, that it was majority rule, and that they proposed it in order to prevent minority rule. Of course, when men start out to do a thing like that, they get as plausible sounding phrases as possible to cover up their tracks, but when they propose that measures should receive a majority of all the votes cast at the election, they knew that they were destroying the thing, even while they were pretending to give it to the people of the state, because the experience is that from 20 to 30 or 40 per cent of the people of any state who will take interest to vote upon candidates at election will neglect to vote upon measures, and it is not fair to require that a majority of all the votes cast at the election shall be necessary to adopt, unless your Constitution also

compels everybody to vote. That provision, which is sometimes proposed, amounts merely to this: That it counts all the ignorant and all the indifferent in the state against progress. It says to the people who perhaps favor the change, "You must get a majority, not only of all the votes cast on the measure, but a majority of all the votes cast for roosters and eagles for party emblems and candidates at the election," and it says to the people who wish to oppose change, "You don't have to do anything of the kind; you may count on your side voting with you at the very start," that 20 or 30 or 40 per cent of people who don't vote at all.

We say it is not fair; we say it is not honest; we say it is not keeping faith with the people, and I hope that won't be proposed here.

Another provision by which they seek to render useless these instruments is to make very high percentages. Anybody that has had experience in securing signatures to petitions for referendum voting knows that in a state like Ohio, with a million votes, it is a very difficult matter to get five or six per cent, and it is going to be twice as difficult now with women voting, and these percentages are going to be very, very burdensome. I say that if you make the percentage as high as ten per cent for referendum voting in the future in your State, with the women voting, you may almost as well not do it at all.

Mr. MAYER (Cook). What is it in Ohio?

Dr. BIGELOW. In Ohio we have three kinds of percentages.

Mr. MAYER (Cook). I mean constitutional amendments.

Dr. BIGELOW. Constitutional amendments is ten per cent, which means in round numbers about a hundred thousand signatures to submit a constitutional amendment. In Ohio we have the indirect form of the initiative for laws. Our procedure is this. The parties desiring to pass the legislation, may draft it, print it on petitions, and secure to the petitions three per cent of the signature of the people of the State, three per cent of the vote cast for Governor at the last preceding election. With that three per cent petition they file the measure with the Secretary of State ten days before the legislature convenes. The Secretary of State must transmit the measure to the Speaker of the House and the President of the Senate, and by that channel it goes into the legislative hopper. Now, the legislature may treat that matter with the same freedom it would treat any other measure introduced by a member of the General Assembly. Our Constitution provides that the original petition shall carry the names of from three to five citizens, and these citizens represent the petitioners, and if, after the legislature has handled the matter, perhaps passed it with changes, maybe the changes have improved it. In that case there would be no desire to have a referendum vote upon it, but if the legislature has refused to pass it, or if the legislature has passed it in some amended form that is regarded as an emasculation of the matter, then the committeemen have the right to circulate what our constitution requires, a supplementary petition, and by getting an additional three per cent, making a total in all of six, it may require the submission of the measure to a popular vote at the next general election.

Gentlemen, I am ready for questions.

Mr. SUTHERLAND (Cook). With Dr. Bigelow's consent I would like to ask him a question or two.

Dr. BIGELOW. One at a time.

Mr. SUTHERLAND (Cook). Dr. Bigelow, I believe you are the gentleman with whom I had the honor of debating before the Civic Club of Chicago a month or so ago.

Dr. BIGELOW. Was it an honor?

Mr. SUTHERLAND (Cook). Do you agree with Governor Dunne that the tendency of the initiative and referendum is to drive out the lobby from the legislative halls?

Dr. BIGELOW. Why, I think there is no question about it.

Mr. SUTHERLAND (Cook). Now, you referred in your debate before the City Club, and again today, very beautifully to the early New England

town meetings, and your thought is that the initiative and referendum is of the essence of those town meetings, I take it?

Dr. BIGELOW. I will say that it is an adaptation of the principle of the direct democratic government, to modern conditions as far as it seems to me wise to admit of that principle of the democracy.

Mr. SUTHERLAND (Cook). Then it would also be of the same general character, modified to fit enlarged conditions, of the early cantonal landsgemeinde of Switzerland?

Dr. BIGELOW. No, I would not say so.

Mr. SUTHERLAND (Cook). Well, what was the essential difference between the Landsgemeinde and the New England town meeting?

Dr. BIGELOW. Well, the Landsgemeinde and the New England town meeting were substantially the same. It would depend upon the conditions, of course. You could not have successfully a democratic assembly over too wide a territory.

Mr. SUTHERLAND (Cook). Now, you made the point, and Mr. McDonald made the point, in favor of the initiative and referendum and its popularity that no state that had adopted it had ever rescinded it, the people had never voted it out. Isn't it the same with our experience with the long ballot? For example, in Cook county, we elect a large number of officers. We will elect at some elections as many as sixty or seventy officers on the same ballot on the same day. There will be over three hundred candidates' names on the ballots. That seems pretty confusing for the voter, does it not?

Dr. BIGELOW. Yes, I think so.

Mr. SUTHERLAND (Cook). In the same way, if you put thirty or forty or more propositions on the same ballot, that is a pretty heavy load upon the voter, and yet whenever it is proposed to replace one of those elective offices by the appointive group, no matter how comparatively insignificant or nonpolicy determining that office may be, we have the greatest difficulty, and when it is submitted to a referendum, it is generally defeated; that is true, isn't it?

Dr. BIGELOW. Yes.

Mr. SUTHERLAND (Cook). Because the people are loath to give up anything which they esteem to be a franchise and privilege. It is a natural tendency. Therefore the tendency of popular government, we might say, is more and more toward direct participation in as great a degree as possible of the voter; is it not, and not to an elimination of any of the privileges of any of the electoral franchises once granted; that is a fundamental tendency of popular government, is it not?

Dr. BIGELOW. Yes, I think it is, Mr. Sutherland; yes, sir.

Mr. SUTHERLAND (Cook). Therefore, the logical tendency would be back to direct democracy, would it not, the direct democracy such as flourished in Greece and in Italy, in those early cities?

Dr. BIGELOW. No, I don't think that follows.

Mr. SUTHERLAND (Cook). But how would you define direct democracy?

Dr. BIGELOW. I tried to explain that I considered that popular government would be quite impossible without this device of the representative type of government, and I don't think that it would be physically possible, nor is it conceivable to me that there would be any disposition or tendency or any possibility of the people re-establishing in the State of Illinois, or in the United States, such a form of direct democracy as the New England town meeting. That was possible only when they lived together in little villages.

Mr. SUTHERLAND (Cook). Not in its physical application, no, but in the direct participation of the voters through the vehicle of a ballot affecting propositions it is essentially the same. The people may or may not attend the election and vote, they may or may not attend the meeting and participate, but if they attend the election, they may vote, and those who attend will control, just the same as those who attend the meeting could vote, and those who attend the meeting would control.

Dr. BIGELOW. I would like to answer that question. It seems to me that it does not by any means follow that the tendency will be to vote more upon questions by direct vote, and that the tendency, rather, will be the other way; that legislatures will be improved in character and there will be less resort to direct legislation.

Mr. SUTHERLAND (Cook). But you pointed out this, and it is true as my own investigation shows, that the tendency in the state that have originally adopted a modified form of the Initiative and Referendum has been to use the initiative to remove the modifications and to bring the operation of the Initiative and Referendum into a more and more direct character.

Dr. BIGELOW. I pointed out that the amendments in some of the states had been changed to extend to constitutional amendments, whereas they had first applied to ordinary laws.

VOICES. Louder.

Mr. BIGELOW. I had pointed out that the amendments had been brought forward and adopted to extend the principle to local legislation, whereas first it applied only to state legislation, and in that respect, that is, in the respect of the development of the system, it has been extended so as to cover all subdivisions of the state and to extend to all legislative functions. There has been a development of it and an extension of it, but I don't think it follows that because the people have insisted that the principle of direct legislation should be applied to constitutional amendments as well as to statutes, and to local legislation as well as to state legislation, that therefore, they are going to vote on an increasing number of questions as the years go by. I think, on the contrary, they are going to make less use of it as time goes on, because the legislature is going to know that they could use it, and there is going to be a greater disposition on the part of the legislature to carefully consider public opinion and meet it.

Mr. SUTHERLAND (Cook). Well, up to the time that the war intervened and turned public attention from matters of legislation, not only direct legislation but through the general assemblies, the tendency was in removing the restriction upon the machinery of the Initiative and Referendum itself. Now, for example, in Ohio, you require the petitions to arise in a representative number of counties, I believe.

Dr. BIGELOW. One half of the percentages required have to be contributed by one half of the counties of the State.

Mr. SUTHERLAND (Cook). To use the most recent example, in North Dakota, in 1918, they changed the requirement of ten per cent, of the legal voters in a majority of the counties of the state to ten thousand electors by an amendment initiated by petition. That illustrates the tendency, does it not?

Dr. BIGELOW. I don't think that is significant. They didn't see the need, and I don't myself see the need of that provision. I don't think that it is at all important, and I rather think it indicated an improvement of that type of legislation, rather than a danger, or an unfortunate tendency of it.

Mr. SUTHERLAND (Cook). Well, to come back to this question of the town meeting, the landsgemeinde of Switerzland, for example; what would you say as to the corruption that attended these cantonal landsgemeinde? I quote now from Professor Simon DePloige, of the sometime University of Louvain:

"A bailiwick was a snug berth for the man who could obtain the appointment by winning the sovereign's favor. In this case however, the sovereign was an aggregate of some thousands of peasants all of them men leading hard and parsimonius lives. The way to the hearts of such men was not to be found by mere flattery; a bribe of money, a good meal or a flagon of wine were better means to the end. As far back as the 16th century the Landsgemeinde were legislating against the abuse."

What would you say as to that?

Dr. BIGELOW. Well, I will say as to that that I don't know who the gentleman is that writes that, but I know that you can find plenty of people, not only on the other side of the water, but on this side, who will say that our present representation form of government is corrupt.

Mr. SUTHERLAND (Cook). This is by a gentleman who is regarded as an authority. He was a professor at the University of Louvain.

Dr. BIGELOW. Professor John Fiske says that the town meetings of New England were the cradle of American liberty. They were the schools of American democracy that produced the John Adams and the Samuel Adams and the James Otises, the great men who made this republic.

Mr. SUTHERLAND (Cook). You are familiar, are you not, with Winston Churchill's novels of New England life "Coniston," and "Mr. Crewe's Career," in which he shows the New England town meeting and the New England caucus attended only by those who were interested in getting money, not the cradle of liberty but the cradle of corruption, which had its perfect flower in manipulation in the legislatures?

Dr. BIGELOW. I don't have to go to novels for information in regard to that. You can find plenty to be said in MacMaster's History of the United States. Of course, our democracy has been a growth and a development, and we are improving right along. We never had such a satisfactory type of people or government as we have today, but that does not, it seems to me, contradict the praise that our historians have given of the New England town meeting and its adaptation to the conditions of the time. Samuel Adams was a member of the Boston town meeting at the time when the first delegates were elected to the general court, or state legislature of Massachusetts, and the Boston town meeting at that time issued a set of instructions as to how these men were to vote on certain subjects. Samuel Adams made a speech in which he discussed the instructions, and finished it by saying that on matters on which the people had not spoken it was the duty of the representative to vote according to his convictions, but on matters on which the constituents had definitely spoken, he was their delegate to register their will. Now then, that was true representative government functioning in the town meeting at that time, and I dare say it was as pure and as fine as the people themselves, and you can't expect any government to be better than that.

Mr. SUTHERLAND (Cook). Exactly. Those town meetings had this distinct difference from the initiative and the referendum which you have just pointed out, that the people themselves could gather together and could deliberate and discuss and have interchange of views and modify the proposals, as they cannot do under the initiative; isn't that a fact, Dr. Bigelow?

Now, here is what James Bryce has to say about these same New England town meetings and their development which, it seems to me, applies to the initiative and referendum:

"When, however, the town meeting has grown to exceed seven or eight hundred persons, where the element of farmers has been replaced by that of factory operatives, and still more when any considerable section are strangers, such as the Irish or French Canadians who have latterly poured into New England, the institution works less perfectly, because the multitude is too large for debate, factions are likely to spring up, and the new immigrants, untrained in self-government, become the prey of wirepullers or petty demagogues."

Dr. BIGELOW. Mr. Sutherland, that is what I said, is it not?

Mr. SUTHERLAND (Cook). Don't you think that that applies to the initiative and referendum?

Dr. BIGELOW. No. I don't.

Mr. SUTHERLAND (Cook). It seems to me that it does. Now, you said that you thought that the initiative and referendum drove the lobby from the State legislature. You were a candidate for Speaker of the House of Representatives of the General Assembly of Ohio in the session of 1913 following the Constitutional Convention over which you presided, were you not?

Dr. BIGELOW. No, I was not.

Mr. SUTHERLAND (Cook). You were a candidate for speaker?

Dr. BIGELOW. No, I was not.

Mr. SUTHERLAND (Cook). You were quoted in the papers as being a candidate for speaker.

Dr. BIGELOW. Do you believe everything you see in the papers?

Mr. SUTHERLAND (Cook). You say you were not?

Dr. BIGELOW. I was not.

Mr. SUTHERLAND (Cook). Did you ever make this statement which you are quoted as making in the newspapers: "The organ of the corporation lobby can work under cover through whom committees can be named and legislation controlled. Prompt steps should be taken to prevent this. I therefore announce that I am a candidate for the Speaker of the House." Did you ever make that statement?

Dr. BIGELOW. No, I didn't make that statement.

Mr. SUTHERLAND (Cook). Or any similar statement?

Dr. BIGELOW. No, sir.

Mr. SUTHERLAND (Cook). Well, once more the newspapers suffer.

Now, you will recall that in our little discussion before the Civic Club in Chicago, I took the position that the initiative and referendum was not purely a State matter, but that it was a matter of entire change of government, and that so far as each state was concerned, it was a step in a general change of our American form of government from a republic toward a direct democracy. Now, in that connection, you also advocate the recall of public officials?

Dr. BIGELOW. No, sir, I do not.

Mr. SUTHERLAND (Cook). You don't favor the recall of public officials?

Dr. BIGELOW. No, sir.

Mr. SUTHERLAND (Cook). Nor the recall of judges?

Dr. BIGELOW. No, sir.

Mr. SUTHERLAND (Cook). Do you favor a direct election of the President of the United States, abolishing the present electoral college method?

Dr. BIGELOW. Why, I never considered it, but I don't see what that has to do with this discussion, Mr. Sutherland.

Mr. SUTHERLAND (Cook). Because, as I tried to bring out a moment ago, Dr. Bigelow, the whole thing seems to me to turn on a question of a peaceful revolution, involving a change of our whole system of government which was devised by the forefathers of the republic in their efforts to establish a permanent popular government. You are aware, of course, from the history of the early principles of popular government, that none of them succeeded for many years?

Dr. BIGELOW. Where did we ever have any?

Mr. SUTHERLAND (Cook). Any popular government?

Dr. BIGELOW. Yes.

Mr. SUTHERLAND (Cook). The democracies of Greece; were they not popular government?

Dr. BIGELOW. No, they were little autocracies.

Mr. SUTHERLAND (Cook). Little autocracies.

Dr. BIGELOW. They were little aristocracies rather.

Mr. SUTHERLAND (Cook). But the people ruled.

Dr. BIGELOW. Most of the people were slaves.

Mr. SUTHERLAND (Cook). But such of those who voted, the voting people ruled directly, did they not; they were the people of the day, were they not so far as the franchise was concerned?

Dr. BIGELOW. Mr. Sutherland, it seems to me that you might, in discussing——

VOICES. Louder.

Dr. BIGELOW. It seems to me that it is going far afield to go to ancient Greece and Rome. We have had twenty years of initiative and referendum voting in the United States. Why not consider what has been done here?

Mr. SUTHERLAND (Cook). Because this goes far back of the initiative and referendum in these states. Because, Mr. Bigelow, this goes far back of the movement for initiative and referendum in these states. That can be

taken up and others doubtless will, but I want to get the setting for this movement and see just exactly whither we are trending. Also I will say this, that during last October there appeared a published statement from a leading publicist of this country defending the various changes in the Federal government itself, and in that connection I want to ask this question, because that publicist and his agent in this State endorsed your stand for the initiative and referendum. Do you favor a nation-wide initiative and referendum?

Dr. BIGELOW. Well, I have thought sometimes it would be a good thing to have a law, a state law that would give the people of any congressional district the right to express their opinion on national questions.

Mr. SUTHERLAND (Cook). You do not favor a nation-wide initiative and referendum by petitions at large signed by electors at large?

Dr. BIGELOW. I can hardly see how that would be feasible under our form of government, the way we are divided into states and so forth, I have never given it much consideration.

Mr. SUTHERLAND (Cook). Would that be as logical as allowing petitions to arise by electors at large?

Dr. BIGELOW. It is an application of the same principle, I would not say it is just as practical, but I think the way our Federal government is created that a constitutional initiative and referendum would hardly be feasible, I am not advocating it.

Mr. SUTHERLAND (Cook). You are not an advocate of the so-called Federal gateway amendment then?

Dr. BIGELOW. No, I have not considered it very much, I have not advocated it. It seems to me quite a remote thing to expect that the southern states, or any of the states would consent to it, to give the right of amending the Constitution by a direct vote of the people because it would destroy state sovereignty.

Mr. SUTHERLAND (Cook). There is another question with reference to the lobby: What have you to say with regard to the indictment in Ohio last October of a member of the last Ohio General Assembly on the charge of both receiving and of giving bribes in connection with legislation before that body?

Dr. BIGELOW. I hope the gentlemen did not get the impression that I think the Initiative and Referendum is a panacea for all the ills, and there will never be any crooks around or in the legislature after that.

Mr. SUTHERLAND (Cook). I got the impression from what Governor Dunne said and I thought you endorsed his statement.

Dr. BIGELOW. I do endorse Governor Dunne's statements but I did not get that impression.

Mr. SUTHERLAND (Cook). He said it would drive out the insidious lobby.

Dr. BIGELOW. We think it would help a great deal in that direction. I do not suppose any of us would say there would be no more crooks in the legislature.

Mr. SUTHERLAND (Cook). In other words, you cannot legislate to change human nature?

Dr. BIGELOW. You can improve human nature in improving the conditions under which people live.

Mr. SUTHERLAND (Cook). Did I understand you to say at the City Club the other day when we were discussing the question, a statement I had made, in the states where they had the Initiative and Referendum, there was an increased tendency on the part of the legislative bodies to unload their responsibility and increase the number of submissions which they themselves made to the people, and did you say Ohio prohibited that sort of thing?

Dr. BIGELOW. Not quite that as I understand your question. I said that when the Initiative and Referendum was first adopted in the western states, particularly in Oregon, it seemed to be the case that the legislatures were sabotizing the system by loading the ballot up with measures they

themselves were submitting so as to greatly increase the burden of the people. I could not say that is their motive, but that was done.

Mr. SUTHERLAND (Cook). Does the Ohio Constitution prohibit that?

Dr. BIGELOW. Yes.

Mr. SUTHERLAND (Cook). In what section?

Dr. BIGELOW. Our Constitution does not provide for the submission.

Mr. SUTHERLAND (Cook). There is nothing in it to prohibit it?

Dr. BIGELOW. It is never done.

Mr. SUTHERLAND (Cook). Does the Constitution leave your General Assembly free to do it?

Dr. BIGELOW. It was the opinion of the committee who drafted this proposal that we were not opening that door in Ohio, and is their judgment and the judgment of the Convention that it did permit the legislature to do that. That was clearly their intention, whether accomplished, I cannot say, but it is never done in Ohio.

Mr. SUTHERLAND (Cook). Now, you believe in representative government, you do not think the Initiative and Referendum breaks down representative government?

Dr. BIGELOW. I think it preserves it.

Mr. SUTHERLAND (Cook). Insofar as that relates to any single Initiative measure drafted by persons not responsible to the voters, and voted upon as these provisions called for, that is not representative government, is it, that is direct democracy?

Dr. BIGELOW. When the legislature has been asked to do something and refuses to do it, if it subsequently appears by popular vote that the people really wanted it done, would you say in doing it they were destroying representative government? I would say in refusing to do it the legislature was nullifying representative government.

Mr. SUTHERLAND (Cook). Now, Doctor Bigelow, are you the Herbert S. Bigelow whose name appears in this bulletin of the National Single Tax League dated September 17th, 1917 and also March, 1918, as a member of the national committee of that league?

Dr. BIGELOW. Yes; I am.

Mr. SUTHERLAND (Cook). You are an advocate of the single tax?

Dr. BIGELOW. What do you mean by the single tax?

Mr. SUTHERLAND (Cook). What do you mean by the single tax for which this bulletin and league stands?

Dr. BIGELOW. The gentleman, Mr. Chairman, has asked me if I am an advocate of the single tax; I think it is hardly fair to require me to say yes or no in that until I know what he understands by the single tax.

Mr. SUTHERLAND (Cook). By a single tax it is generally understood the taxation of land values only.

Dr. BIGELOW. No, I do not agree to that.

Mr. SUTHERLAND (Cook). What would you tax for?

Dr. BIGELOW. Do you want my views on taxation here?

Mr. SUTHERLAND (Cook). I will explain why I asked this question, Mr. Bigelow. You are acquainted with Mr. Daniel Kiefer, I think, sometime chairman of the Fels Fund Commission?

Dr. BIGELOW. Yes.

Mr. SUTHERLAND (Cook). In his report published in the Public, volume 15, pages 1160-1161, he says this, regarding the action of the Ohio Constitutional Convention over which you presided: "Although the initiative and referendum amendments had been loaded with what was intended to be an inhibition of its uses for any change in taxation, it had failed of its purpose. It does not prevent the use of the initiative and referendum for submission of constitutional amendments providing for the single tax or any other taxing system. That the apparent fruits of single tax efforts for this year have been a direct victory in Everett, Washington, and an indirect victory in Ohio."

We are interested in general governmental views. Are you an advocate in general terms of the single tax?

Dr. BIGELOW. If you define it as a system of the raising of revenue on land values only, I am not.

Mr. SUTHERLAND (Cook). What else?

Dr. BIGELOW. Franchise tax, inheritance tax, income tax and possibly some others.

Mr. SUTHERLAND (Cook). You favor an income tax?

Dr. BIGELOW. Yes. Mr. Chairman, I am perfectly willing to discuss any question that the gentleman wants, but it seems going far afield to discuss my views on taxation.

Mr. SUTHERLAND (Cook). Mr. Bigelow, you say you favor franchise tax and also favor public ownership of utilities, do you not?

Dr. BIGELOW. Well, I would not say that I would be dogmatic about it, but I think public ownership would help in some places, certainly.

Mr. SUTHERLAND (Cook). You believe in lower taxation for the improvements on land than for the land itself?

Dr. BIGELOW. Yes, I think that people should not be penalized for their improvements.

Mr. SUTHERLAND (Cook). And you believe in exemption of personal securities and that sort of thing from the property tax?

Dr. BIGELOW. Yes, I do.

Mr. SUTHERLAND (Cook). Now, Mr. Bigelow, are you the Herbert S. Bigelow who has been connected with the Non-Partisan League which has its legislative branch in North Dakota in which C. A. Townley is the president?

Dr. BIGELOW. I never had any connection with the Non-Partisan League.

Mr. SUTHERLAND (Cook). Did you not in your office in Cincinnati on or about May the 27th, 1919, hold a meeting for the purpose of considering a movement for such an organization in the state of Ohio?

Dr. BIGELOW. No, sir.

Mr. SUTHERLAND (Cook). Did you ever have any such meeting at all?

Dr. BIGELOW. No, sir.

Mr. SUTHERLAND (Cook). Are you the Mr. Herbert S. Bigelow who is the Pastor of the Peoples Church in Cincinnati, Ohio?

Dr. BIGELOW. Mr. Chairman, do you rule these questions are germane to this discussion?

CHAIRMAN DOVE. If you do not desire to answer them, I suppose you can avail yourself of the privilege of refusing.

Dr. BIGELOW. I have nothing to conceal, but I am not being tried for anything.

Mr. SUTHERLAND (Cook). I think it is interesting to get the general ideas of those urging such radical changes in our form of government, and this question will lead up, I think, it will pretty soon appear why this question is asked. I would like to have an answer unless the gentleman really does not wish to answer.

Dr. BIGELOW. Yes, I am.

Mr. SUTHERLAND (Cook). The People's Church?

Dr. BIGELOW. Yes, sir.

Mr. SUTHERLAND (Cook). The People's Church for a considerable period up to and including the Sunday, October 28, 1917, held its meetings on Sunday afternoons in the Cincinnati Grand Opera House, did it not?

Dr. BIGELOW. Mr. Chairman, I do not think this is proper. I do not like this sort of thing. I have come here to discuss the initiative and referendum, and I am willing to answer questions on that subject, but I do not think it is proper to ask me personal questions.

Mr. SUTHERLAND (Cook). Are you the Mr. Herbert S. Bigelow who, on the evening of October the 28th, 1917, went to address a Socialist meeting at York and Sixth streets in Newport, Kentucky, across the river from Cincinnati, was kidnapped and taken in an automobile to Boone County, Kentucy, to a lonely spot and there beaten and otherwise violently treated because of your pacifist activities while your country was at war?

Dr. BIGELOW. Mr. Chairman, I will answer the question on one condition. If this Convention is going into that matter, I am going into it. If the Convention is going to open that story and will hear the whole story I am ready, but I am not going to let pass without resentment the raising of that question if the purpose is not to get to the truth of that incident, but merely to create a prejudice against an issue that has no relation to that incident.

Mr. SUTHERLAND (Cook). I am perfectly willing to hear Dr. Bigelow's story. I read what purports to be his history, in the Cincinnati Enquirer on October 30, 1917, and I will be very glad to hear his version. Possibly he has been misquoted in that paper, too. For example, the Cincinnati paper quotes him as delivering a prayer on the afternoon of Sunday, October 28th, in the Grand Opera House in which substantially—it was called a peace prayer—substantially he was quoted as praying for the Lord to have mercy on the souls of the Kaiser and those proud men about him, and for the Kings and Presidents and Rulers in their pride and folly. If he has a copy of the peace prayer I think we would be glad to have that. He refers to it in this story.

Dr. BIGELOW. Mr. Chairman, I believe that one can always count on the American sense of fair play. That prayer has been referred to. I have not it here. I think it is due me and I think you, as chairman of this committee who has invited me here, meant to treat me with the courtesy of a guest. I think you will agree with me now, that the gentleman has introduced these personal matters and has gone so strong as to refer to that particular prayer and has quoted the lying statements that he has read in the newspapers about it, it is due to me that we should put that prayer, when it can be gotten, on record in this Convention.

Mr. SUTHERLAND (Cook). I would be glad to have this done.

Mr. MICHAELSON (Cook). I think Dr. Bigelow should at least have the protection of the chair in questions that are asked by members of this Convention. This gentleman, as I understand, was invited here to speak about certain questions, and personal matters have been gone into by a delegate from the floor of this Convention which it seems to me have no bearing upon the question under discussion and that gentleman's personal views and acts it seems to me is not the business of this Convention. I do not know Dr. Bigelow, never saw him before, but out of a sense of courtesy to a guest who has been invited to address this Convention, I say to you this treatment is not gentlemanly, and I resent it as a member of this Convention, that anyone invited here, who comes here out of the goodness of his heart to give us information upon any question, should be given the protection of the chair and should not be submitted to personal questions. (Applause.)

CHAIRMAN DOVE. The chair has stated, Mr. Michaelson, and gentlemen, that Dr. Bigelow does not need to answer any of these questions if he does not regard them as pertinent to the questions under discussion.

Mr. MOORE (Macon). Did you say, Dr. Bigelow, that you came here representing organized labor on this occasion?

Dr. BIGELOW. I said that Mr. McDonald, the president of the Federation had requested me to come.

Mr. MOORE (Macon). A great deal of talk has been indulged in here today on the subject of the people ruling, and I would like to know if you can tell us what your idea of the people of the State of Illinois is?

Dr. BIGELOW. I think all the people.

Mr. MOORE (Macon). Men who have money, men who work with their heads and men who happen to be manufacturers and various others?

Dr. BIGELOW. That is right.

Mr. JARMAN (Schuyler). I move that no question be permitted to be asked except those questions referring to the initiative and referendum.

Mr. DAVIS (Cook). On the motion which has just been made by the delegate from Schuyler, Mr. Jarman, it seems to me he misconceives the situation. We are discussing a very important question affecting the prin-

ciples of government. The question is proposed by a gentleman who has occupied a public position, the question is presented by a gentleman who has given public expression on so vital a matter as the success or the failure of the United States in conflict with a foreign foe. It is of some weight to me, Mr. Chairman, and gentlemen of the Convention who the people are who are urging upon us a departure in governmental matters which affects the very cornerstone of our existence and our development. It is fair to the speaker who appears before us now, and no one has any desire, I know Mr. Sutherland has not, to treat him unfairly; it is fair to him and it is fair to the proposal which is being considered at this time that we know what his views are on other public matters than the initiative and referendum. It was fair to ask of him if he was a single taxer or if the initiative and referendum is a means of getting legislation for single taxation in the State of Illinois. It was fair to ask of him whether in the world's conflict he was an American in the sense that he wanted America to win the war and not Germany. It was fair to ask of the man who has been chairman of the Constitutional Convention of a sister State and who is appearing here as an advocate of a principle of government if a report which has appeared in a cosmopolitan newspaper charging him with being a disloyal American is correct or incorrect. The question is asked him in order that he may have the opportunity of telling this Convention whether or not whatever he is saying is prompted by the highest ideals and the best ideals of American citizenship. I hope the motion will not prevail. (Applause.)

CHAIRMAN DOVE. Are there any further remarks?

Mr. MAYER (Cook). The motion as I understand it is, that no question shall be put to Mr. Bigelow except those pertaining to the initiative and referendum. That is impossible to decide. To some intellects the question may not appear pertinent, to others it may appear extremely pertinent; to adopt a resolution which will in advance undertake to draw a procrustean bed on an inquiry of this kind is I am inclined to think a little bit hasty. Now, I can supplement what Colonel Davis has just said. Suppose that Mr. Bigelow, who is counsel for a railroad company and came here to give us his views on the initiative and referendum; would not it be entirely fair and are not there members on the floor of this Convention who would deem it entirely proper to learn of his activities and his associations for the purpose of determining how convincing his logic and his argument may be. Men form opinions resulting from environment. Their opinions may be entirely honest, and yet when you put the opinion into the frame of the environment you are better able to judge of its logic. I do not think a motion of this kind ought to prevail in hearings of this character. It offers a precedent which may come back to plague us. I certainly have no interest in either discrediting Mr. Bigelow or bringing any kind of ignominy on his name or his reputation, and when I retire from the session today to reflect upon what I have heard my judgment of the merits of the various arguments will be influenced not a little by knowing whether the gentleman who has advanced them is a lawyer in the pay of railroad companies or a lawyer in the pay of single taxers or a lawyer in the pay of the Federation of Labor. All of these things go to make up the judgment which I shall be able to form in hearing the arguments that are advanced. I do hope, gentlemen, that the motion which has been made does not prevail. If impertinent questions are put, if impertinent questions should be put it is always within the power of any member of the Convention to get up and object and for the chairman to rule on it.

Dr. BIGELOW. It seems that the remarks of the last two gentlemen have by innuendo raised questions as to my loyalty.

Mr. MAYER (Cook). I raised no such question.

Mr. DAVIS (Cook). Nor have I.

Dr. BIGELOW. In view of the innuendos I feel that I hope this motion won't prevail and that I shall be permitted now since you have gone that far into it, to make a direct answer to the question.

Mr. SUTHERLAND (Cook). I withdraw the question.

Mr. JARMAN (Schuyler). I withdraw the motion.

Mr. CORLETT (Will). I understood you to say in some instances, ten, twenty, thirty and even forty per cent of those voting for offices at any election fail to vote upon proposed measures. I would like to ask if I correctly understood you?

Dr. BIGELOW. Yes.

Mr. CORLETT (Will). How do you account for the fact that as large a percentage as 40 per cent sometimes fail to vote upon proposed measures?

Dr. BIGELOW. I account for it in this way. I have had occasion frequently to analyze the votes as they have been cast in my city. Now, we have sections of the city, one we call Rat Row, another the Silver Moon precinct, they are the slum sections of the city. It is always the case that when it comes to a vote on candidates these people—for instance, I remember when Mr. Taft was running for President, in the Silver Moon precinct Mr. Taft got 314 votes for President in that precinct in Cincinnati, but there was a measure being submitted at the same time and there were only 19 votes cast on that measure in that precinct. That is to say, these people were unfortunate people, they were among the very poor—some people would say they were of the vicious element—they all go out and they have done it uniformly and vote in pretty full strength for candidates for office, but they have not the intelligence, they are not awake mentally, they do not know about these questions, and it seems the politicians even are unable to get them to vote on certain measures. The result is, the so-called ignorant, illiterate and indifferent elements of our citizenship neglect to vote on these measures and the big vote on the measures comes from the sections of the city where people are working people and own their homes and are fairly intelligent and substantial. That is our experience.

Mr. CORLETT (Will). If as large a percentage as you have mentioned refuse or fail to vote upon proposed measures, isn't it a fact that 31 per cent of the voters of the state might enact any statute or even adopt a new Constitution, under the proposal now being considered by this Convention?

Dr. BIGELOW. Mr. Chairman, I would like to answer that a little indirectly.

Mr. CORLETT (Will). That will suit me.

Dr. BIGELOW. Here is a little pamphlet coming from your Legislative Reference Bureau, which contains a lot of invaluable information. It is the most useful little pamphlet on the initiative and referendum I have ever seen, and there is tabulated a large number of votes, all the votes we have had in the State of Illinois and votes in many other places and you can see how people vote, and that has not happened, the thing you fear.

Mr. CORLETT (Will). The question is whether, assuming that 40 per cent of the people do not vote, could not 31 per cent enact any statute or even adopt a new Constitution?

Dr. BIGELOW. Yes, and it might be worse than that, not only 31 per cent, but when it comes to mights and have beens, less than 31 per cent might elect a legislature, as I understand you people have your seats here by virture of a much less vote than that.

Mr. CORLETT (Will). You are mistaken in the percentage, but while you are speaking about percentages, the vote upon your question of public policy received 11 per cent, less than 11 per cent of the entire vote of the state.

Dr. BIGELOW. What percentage of the votes did the people who sit here get of the entire vote of the state?

Mr. CORLETT (Will). Probably 35 or 40 per cent, about four times what this other received. Now, you say, doctor, politicians are able to get the ignorant vote to vote for candidates, which amounts in some instances to 40 per cent. Suppose that they voted that 40 per cent for some of these measures? Well, they would only have to get 11 per cent of the intelligent vote, assuming that everybody voted, is that not so?

Dr. BIGELOW. You can carry it to greater extremes than that; under your present system a man might be Governor of the State by one vote in the State.

Mr. CORLETT (Will). If you eliminate 40 per cent of the vote as not participating in the proposed measures, isn't it a fact that a scheme of that kind would give an organized minority a tremendous advantage over an unorganized majority.

Dr. BIGELOW. No more subject to that than the present system that you have.

Mr. DEYOUNG (Cook). In the State of Ohio you adopted the initiative in 1912, I believe. You make a distinction in the provisions concerning the initiative between constitutional proposals and statutory proposals. You require an initiative petition in Ohio of at least ten per cent of the voters on constituional changes. In the matter of statutory changes you require a petition first, having at least three per cent of the voters, and it is sent to the legislature. If the legislature fails to enact it or if it fails to take any action, then within a period of four months this supplementary petition having at least a like percentage of three per cent may cause it to be submitted to the electorate of the State, and in either event, first of all the conditions under which your initiative can be provoked with reference to Constitutional questions are greater or more burdensome, if you will, than under those proposed in the pending measure, that is correct, is it not?

Dr. BIGELOW. The percentage is less.

Mr. DEYOUNG (Cook). At least ten per cent. In other words, more than twice the percentage required if Proposal 133, now under consideration, should become effective.

Dr. BIGELOW. Yes, I will say that our ten per cent will be very burdensome if women suffrage comes in.

Mr. DEYOUNG (Cook). But without women suffrage you have the requirement now of ten per cent?

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). With reference to statutory changes; having filed your petition with the Secretary of State first, before the session of the General Assembly, and then the period of time that elapses if the legislature fails to act, there is a much longer period for deliberation in Ohio than will be the case in the pending proposal in Illinois?

Dr. BIGELOW. Yes.

Mr. DEYOUNG (Cook). You have had some experience in Ohio, both in the initiative and referendum. In 1919 there were several measures submitted under either initiative or referendum in your State, were there not?

Dr. BIGELOW. Yes.

Mr. DEYOUNG (Cook). Can you name some of them submitted? I have reference to the ratification of the Federal prohibition amendment, that was one?

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). Were there any other measures of like character at the same election?

Dr. BIGELOW. Yes.

Mr. DEYOUNG (Cook). Will you tell me what those four questions were, and what the results were in each case?

Dr. BIGELOW. I think you are trying to bring out in your question——

Mr. DEYOUNG (Cook). The facts. Let us get first so far as the ratification of the prohibition amendment was concerned; what was the result?

Dr. BIGELOW. It was sustained, the State prohibition.

Mr. DEYOUNG (Cook). The State prohibition was sustained. Now, what was the result with reference to the Federal prohibition amendment?

Dr. BIGELOW. That was rejected.

Mr. DEYOUNG (Cook). By the same electors at the same election, both with reference to prohibition voted upon by the same voters the same day in the same State. What was the third proposal?

Dr. BIGELOW. Referendum vote on the Crabbe enforcement act, a State measure.

Mr. DEYOUNG (Cook). That was defeated?

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). The measure for a State wide prohibition was carried and that for law enforcement with reference to the same subject was defeated?

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). What was the fourth proposal?

Dr. BIGELOW. A taxation matter.

Mr. DEYOUNG (Cook). That was not with reference to the liquor traffic at all?

Dr. BIGELOW. No.

Mr. DEYOUNG (Cook). Now, you admitted in answer to Delegate Corlett's question that experience has demonstrated that the vote cast for candidates has been greater on the average, almost uniformly so, than on measures and that would be true in State-wide elections, would it not?

Dr. BIGELOW. In almost everything except prohibition.

Mr. DEYOUNG (Cook). Prohibition and possibly women's suffrage, the only two measures ever submitted to the people of any of the States of the Union that ever attracted as large a vote as candidates for office, those two questions agitated for years.

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). Upon constitutional questions, even the one of taxation, which I think we recognize as one of the most important questions to be exercised, even upon that question there has been a much smaller vote, generally speaking, than for candidates for office?

Dr. BIGELOW. Yes, but the vote is not bad.

Mr. DEYOUNG (Cook). You will admit that the vote is less?

Dr. BIGELOW. Yes.

Mr. DEYOUNG (Cook). You will also admit, doctor, I believe, that an amendment to the Constitution of a State with reference to the power of taxation is of greater importance than the mere placing of an incumbent in a public office for a very short period of time, when his term of office will elapse, you will agree to that?

Dr. BIGELOW. Yes, sir.

Mr. DEYOUNG (Cook). Now, you refer, doctor, to the railroad which your city owns, that is 320 miles long. Does your city own the equipment, the trains and the cars?

Dr. BIGELOW. That is operated under a lease.

Mr. DEYOUNG (Cook). So that the city owns merely the right of way, the ties and rails and perhaps other permanent fixtures?

Dr. BIGELOW. No rolling stock, but the stations.

Mr. DEYOUNG (Cook). The equipment is provided by the lessee and this railroad cost thirty millions of dollars. You said at the expiration of the present lease that it would be worth 214 millions of dollars. Will you tell us, doctor, for how long a period of time that lease is to run?

Dr. BIGELOW. Sixty years.

Mr. DEYOUNG (Cook). You would not undertake to say for a moment that 214 millions is the present value of the property?

Dr. BIGELOW. No, the lease provided certain annual payments at certain periods; the payments were to increase and it provided that certain amounts of money from time to time should be invested in great railway terminals, and that at the end of the sixty year period the property was to come back, and the auditor's books showed at that time it would have a book value of 214 million.

Mr. MAYER (Cook). You include the sixty year rentals?

Dr. BIGELOW. Not the annual rentals.

Mr. DEYOUNG (Cook). You do not want the impression to prevail that the railroad at the time the City Council were willing to accept 19 million was worth 214 million?

Dr. BIGELOW. No.

Mr. DEYOUNG (Cook). You would not undertake to say that it even approaches in value for the 320 best miles of it anything like 214 million dollars at the present time?

Dr. BIGELOW. I would be glad to put in evidence the report of the auditor of the road, but the point I was making was that the referendum vote saved the road.

Mr. DEYOUNG (Cook). And that referendum vote was provided by a law enacted by the Ohio legislature some time in the 50's?

Dr. BIGELOW. Yes.

Mr. DEYOUNG (Cook). Before the initiative and referendum was ever heard of in the United States?

Dr. BIGELOW. Yes.

Mr. DUNLAP (Champaign). I would like to ask Dr. Bigelow a question or two. I understood you to say in answer to a question that you favored the single tax proposition with perhaps the addition of the taxation of public utilities and the income tax, is that correct?

Dr. BIGELOW. Yes.

Mr. DUNLAP (Champaign). You propose to do away with the tax on intangible property?

Dr. BIGELOW. If you want my views on taxation, I think that it would be wise—I do not propose any sudden application to it—but a gradual getting back to three or four types of taxation, the income tax, inheritance tax, and as long as we have privately owned public utilities a franchise tax and the land value tax. I would get the personal property taxes through income tax rather than by listing the securities.

Mr. DUNLAP (Champaign). I understood you to say that first organization that availed themselves of the application of the initiative and referendum in Ohio was the Chamber of Commerce in attempting to pass a law for the classification of property?

Dr. BIGELOW. Yes, sir.

Mr. DUNLAP (Champaign). Can you tell us why that was defeated or what were the views of those who voted against that proposition?

Dr. BIGELOW. As I understand it it was not generally favored by the commercial interests because it is ruinous for them and the banks to return their bank deposits and their mortgages and investments and pay the general property tax rate, it is ruinous for them, and they saw a classification system whereby such securities could be listed at a lower rate of interest than other classes of property, and the proposition is generally opposed by the farmers and the people from the country who seem to feel it is against their interests. Since you are on the question of the single tax, the single taxers of the country undoubtedly did think that if they could get the initiative and referendum that they would have some chance to put over the single tax, just as other radicals have fancied that with the initiative and referendum they could get radical propositions through, but there has been a great disillusionment and disappointment on the part of railroads and they have discovered that that cannot be done, and while you might possibly slip something through a legislature that the people did not want, you could not get it by the direct vote of the people. In Oregon, where the Fels Fund money was used to make a campaign for single tax—that was referred to this morning, and I believe some reference was made to me as a hired servant of that organization, although I never received a penny from any such source—the money was used out there to try to get the single tax adopted; also in Missouri and also in California, but what do the results show? In Missouri they got 14 per cent of the vote for the proposition, an overwhelming vote against it; so in California, so in Oregon.

Mr. DUNLAP (Champaign). Isn't it true that the classification tax was due to the fear on the part of the farmers that the initiative and referendum would be used to put over a single land tax proposition?

Dr. BIGELOW. Yes, some people may have attempted to use that, but I think the people of Ohio are more intelligent than that. I think they understand what the classification proposal was for. They are not afraid of the single tax. They understand what the classification was for. It was

to get mortgages and stocks and bonds and that sort of thing on the tax books for a lower rate of interest than real estate. That is what it was for?

Mr. DUNLAP (Champaign). Don't you think that the proponents of the initiative and referendum come very largely from special interests, and by that I mean the single tax proponents, and other special interests who have been unable to secure legislation; because they were in the minority they were unable to secure legislation from the regular representative bodies, the legislature.

Dr. BIGELOW. Why, no, because in these initiative and referendum measures the amendments are carried by big votes wherever they are submitted always, and yet when you come to submit the single tax proposition, the single tax propositions have been overwhelmingly defeated, showing that there are more people who favor the general principle of popular government as expressed through the initiative and referendum than who favor these various economic schemes.

Mr. DUNLAP (Champaign). Judge Dunne, when he was asked this morning to name some proposition that the people of the State of Illinois had asked of the legislature, was unable to name a single proposition that had not been granted in some form or another, and if that is true, isn't it true that the adoption of the initiative and referendum proposition and the voting for it as a question of public policy, is due more to the catch phrase that it is getting back to a democratic form of government and letting the people rule, than that there is any real substance in the proposal itself?

Dr. BIGELOW. Well, I think not. I think some things have been done in Ohio that would not have been done only they were done with the initiative and referendum, and I think in the future things will be done. I will give you one illustration: The State legislature passed a bill in Ohio creating a State commission, to investigate the subject of old age pensions. The commission after investigation of it submitted a favorable report to the legislature and a bill was presented incorporating the recommendations of the commission, and it went to sleep in committee and the legislature refused to pay any attention to it. Now, the miners' organization there, labor organizations there, are going to put that bill on the ballot by petition and present it to the next legislature. Now, it goes to the next legislature as an initiated measure. The legislature may pass it, but presenting it as an initiated measure, they will then have the power, if the legislature again ignores it, to have it referred to a vote of the people. I think with that opportunity, while it does not open the doors to do anything that the people really don't want done, it does furnish an opportunity for groups of people to try to do things, so as to get a discussion and get questions before the people; and under our Constitution it is necessary for the Secretary of State to send out a pamphlet containing the full text of the measure with some reasons or arguments for and against, and that goes to the voters some thirty days before election, and some effort is made to make of this system a school. We believe, as Mrs. Treadwell has said, it will tend to raise the standard of our citizenship, it will tend to prompt a discussion of public questions and enlist the interest of the people in their own government.

Mr. DUNLAP (Champaign). Then you don't stand for this amendment that is proposed here in its present form; your idea would be to put certain restrictions about that?

Dr. BIGELOW. Oh, I think that this ballot definition is not itself a complete initiative and referendum section of a Constitution, and I would expect, of course——

Mr. GREEN (Champaign). Mr. Chairman, inquiry has been made and it is learned that there are two speakers yet who have come here by invitation to address the Committee of the Whole on this proposition. Professor Merriam and a lady are waiting. Also it seems to be appropriate that if we have a recess until this evening, a motion for recess should receive that unanimous support that would insure the same courtesy of hearing to all the speakers that has been accorded to those who have already talked to us,

and I am sure that it is due the gentleman who is now addressing us from the chair that he should be given an opportunity after lunch or dinner to return at 8 o'clock and conclude his discussion. To that end, Mr. Chairman, I move you that we take a recess until 8 o'clock this evening.

CHAIRMAN DOVE. Before putting that motion, Mr. Green, Dr. Bigelow has requested the privilege of replying to a question that was put to him by Mr. Mayer, I think, or Mr. Sutherland.

Mr. HAMILL (Cook). Couldn't you do that when you come back at 8 o'clock?

Dr. BIGELOW. Unless we are going to have substantially the same audience that heard these innuendoes, I want to reply now.

Mr. HAMILL (Cook). How long will it take?

Dr. BIGELOW. It will take me about five minutes.

Mr. HAMILL (Cook). Go ahead.

Mr. Green (Champaign). Mr. Chairman, I believe it is the sense of the committee that Dr. Bigelow be allowed to make the explanation before the motion is put.

CHAIRMAN DOVE. Very well.

Dr. BIGELOW. Mr. Chairman and gentlemen:

In making this statement, of course, it is an ex-parte statement, and should be substantiated by evidence. I want the privilege of sending to the Convention, that it may be made a part of your records, the evidence to which I can only refer this afternoon, since, of course, I didn't bring these arguments with me.

Before our country declared war, I, as a Christian minister, counseled peace. The moment our country declared war, I, as a Democrat, that is, one who believes in the right of the people to rule, said to my friends, and from my platform publicly, "The nation has made a decision. Whether that decision is right or not, the nation has a right to make the decision. Only he who is an anarchist can refuse, now the decision having been made, to waive whatever opinions he may have had, and go along, making that decision from that time on his own and doing everything possible to make the country's cause in the war a success."

Supporting that position I wrote down to my friend Newton T. Baker, of the War Department, offering to enlist, and that was before the draft act and before any laws had been passed that excluded one of my age. I will place in the records of this Convention the letter in my possession which I received from the War Department acknowledging my offer and thanking me for it.

That was my position all through. Many a boy has come to me, a member of my congregation, at the time of the registration and the draft, asking me what to do, and I have put my hands on the shoulders of these boys and looked into their beautiful faces and said to them, "Lad, as a Christian, you must put all hate out of your heart, but I must, as an American, advise you to go to war; support your country's cause;" and I said, "You have a right to do it, particularly that the President has said to this nation, has made you pledge, that this is a war for democracy; that we are applying the Declaration of Independence, of government by consent of the governed to all the world," and I said, "This is a sacred thing; go."

Some of those boys went and stayed; others came back mutilated for life; and those who came back and my people are my witnesses that this was my attitude.

But I was in the City of Chicago at the time the socialist headquarters were raided, and I was to speak in the City of Milwaukee, and I sent that night a telegram to Mr. Baker explaining my attitude as to the war, and asking him if the government had any objection to my going to Milwaukee and making the speech that I intended to make. I got a telegram back from him saying that he had no knowledge, though he had tried to find in Washington, any disposition on the part of the government to interfere with me ir any way.

I went to Milwaukee and made the speech. I will put in evidence the newspaper articles published in the Milwaukee papers the next day, with

headlines saying, "Bigelow's Speech a Wet Blanket on His Audience;" that the audience applauded him as long as he was supporting economic questions, but that he advised support of President Wilson and the government, and that the audience clearly was out of sympathy with him on that. I will put in this Convention record, if you permit me, the newspaper evidence of my attitude at that meeting.

Now, that prayer that was referred to. They say I prayed for the Kaiser. When you get the prayer and read it, you will find that I prayed that the spirit of the Heavenly Father should take the evil out of the hearts of these men and show them the error of their way, yet that night—the thing must have been planned before that prayer, because what happened within two or three hours after the opera house meeting—I was seized by a Klu Klux gang of forty brave men, who did take me, at the point of a revolver, with handcuffs and ropes and gags over into a little place in Kentucky, and did this thing.

Why did they do it? Did those men think that I was disloyal? I will place the evidence in your records that will show that they could not have known my position.

This, my friends, is the truth. We got the initiative and the referendum in the Constitution of 1912. It became operative in 1913; and it so happened that in those next few years all the public utility franchises of Cincinnati matured, and the question of issuing gas franchise, electric franchise and street car franchise came up, one after the other. These interests went into the City Council and did just as they had been used to doing—getting whatever they wanted to from the City Council.

I have been responsible perhaps more than any other individual in Ohio for securing these instruments of popular government, and I will confess to one crime—no disloyalty to my country, but disloyalty to those special interests who, by lobbies and by bribery and by all kinds of blandishments known to them have secured in the past special franchises by which they have robbed my people. I have been disloyal to them, and I showed that disloyalty in this way: I became personally responsible for using this power of the referendum, making the first use of it that was ever made in my city, and when these men went into the City Council to get an electric light franchise, I secured a referendum against it, and I held it up. When they went into the City Council and got a franchise for the street railway coming across the river, again I got a referendum and held it up. When they tried to get a gas franchise I did the same thing—three referendum votes one after the other. The last one it was a question of giving a twenty-five year franchise to the Green Line Company coming over from Kentucky. They put streamers over the city streets, clear across all the crowded thoroughfares of the city in that campaign reading, "Bigelowism vs. Business; which will you have?"

When they filed their reports of their expenditures, they admitted they spent $27,000 in that campaign. In spite of that slogan, in spite of that appeal to prejudice, the people of Cincinnati, by a majority of 8,000 defeated that franchise; and these men didn't like it; they were mad about it, and my friends would come to me from the clubs and say what they were saying—"Bigelow ought to be driven out of town; should be tarred and feathered; and he ought to be hung by a lamp post." Why? Because I was using this instrument that they didn't like, the instrument by which we were holding up their franchise grabs and getting the vote on them.

Immediately after this, this situation comes about. Here is war psychology. They strike a man down in time of war. They say he is disloyal. They can get away with it, and so they took me. And I have evidence in my possession that there were public utility people who paid two saloonkeepers money to hire chauffeurs and the cars to do this thing.

I think the people of Cincinnati understand it. You of course don't understand it. I would not presume to air my personal history before you, but since you have raised the question, it would seem just to me and just to the initiative and referendum, which now has become involved in this story, that I should make the statements that I have made. (Applause.)

CHAIRMAN DOVE. With the consent of the committee, permission will be granted Dr. Bigelow to put into the records the instruments and the documents he desires.

Before recess, the agricultural committee meeting called for tonight at eight o'clock is postponed until tomorrow morning at nine o'clock.

All in favor of the motion to recess until eight o'clock this evening will say "aye."

Motion prevailed, and a recess was taken until 8 o'clock p. m. of the same day.

8:00 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Dove presiding.

CHAIRMAN DOVE. If the committee will be in order we will resume the discussion of proposals number 133 and 134. I think the statement made in the beginning of today's session has been abundantly borne out. We will have a full day. There are still three speakers whom the committee invited to address us who will be heard.

Mr. HAMILL (Cook). If Mr. Bigelow is here, I desire to put one or two questions to him.

CHAIRMAN DOVE. He does not seem to be here. Captain Charles E. Merriam of the University of Chicago and former alderman of the City of Chicago, and member of the Initiative, Referenum and Gateway Amendment League is here in response to an invitation of the committee and it is indeed a pleasure to present him to this committee. Captain Merriam.

Mr. MERRIAM. Mr. Chairman and Gentlemen of the Convention: I have the honor to be invited here by your chairman to speak upon the initiative and referendum. I might have preferred if I had been given the chance to talk on the matter of home rule, with which I have had more personal and professional experience, or on a matter of taxation, but in any event I appreciate the opportunity of being heard by the Committee of the Whole, although I must say I approach this august body with some trepidation. I shall be glad to tell you anything that I know of the theory or the practice of the initiative and referendum, or in regard to matters that are collateral to it.

I am willing to tell you about my views on taxation and any other views that may bear upon the problem of initiative and referendum particularly, although I will say I do not intend to repeat my prayers for you as the gentleman who preceded me did. (Laughter.)

The initiative and referendum is on the Constitution or on the statute books of all but four states of this Union. There are forty-four States that have the initiative and referendum and four that do not have it in any form. Of these institutions, the referendum, as far as I can discover, appears to be the oldest and least contested.

I suppose everybody agrees in this day upon the propriety and desirability of the constitutional referendum, whether they believe in the constitutional initiative or not, and that is the theory upon which this body is organized, and you gentlemen here, while you represent the people of the State of Illinois, do not have the last word upon the organic law of the State, for the result of your labors after the completion of your work must go, under the principles of our Government, to a referendum of the people of Illinois, and it will go at a special election. You were elected by something like 500,000 votes of the people of Illinois and there might be one million votes cast on your labors.

The constitutional referendum was not adopted at the outset; it was perhaps twenty years before the principle of submitting constitutional results to the mass of the voters was decided upon. The last Constitution of the State of Delaware was adopted by the legislature without a referendum, and the Constitution of two-thirds of the Southern States, even in my day, were adopted without a referendum.

I suppose we all agree upon the propriety of the constitutional referendum, however small the vote that may be cast at the election, however small the total number of votes cast upon your proposed Constitution, or however unqualified they might be, we all agree that that result will or should go to the electorate of the State of Illinois.

Now, comes the statutory referendum that appears next in the order of development. The statutory referendum came later than the constitutional referendum, and it came first not as the result of a theory, but as a result of the bitter experience of many states. There were states that loaned credit in an extravagant way to private institutions, there were state legislatures that piled up enormous debts, that passed banking laws that were deemed inappropriate for a legislative body to pass. In the Constitutions of many States long before the Civil War there were embodied in those for the constitutional referendum; we have them now in the Constitution of Illinois, we have a statutory referendum upon bond issues. The legislature cannot incur a debt of more than $250,000 without a popular referendum upon those measures, or change the banking laws without a mandatory referendum. You cannot escape that even where there is no contest. In the main those were universally adopted; none of the possibilities, none of the objections, none of the subtleties that were raised here were deemed to be violated. We consider it to be a sound practice, do we not, to vote on the good roads and waterway development, and that is not because the voters know more about the technical details of the waterway, because they don't; why not let the expert representatives of the people decide that matter and be done with it? Then came after that the local referendum. The local referendum came in counties even, when they got into a squabble in regard to the location of the county seat, and they provide the county seat could not be changed except by vote of the citizens of the locality, and they provide that the charter of the city should not be voted by city councils, but by referendum vote of the municipality, and they provide in many cases that franchise grants should not be made unless there is an opportunity for a referendum vote, and they provide in the laws of other States and this State that the bond issues of municipalities should be subject to mandatory referendum. Even in Illinois, as one of your delegates informs me, in the case of a school building, somebody circulates a petition for a school building, and on that you have a referendum to inaugurate the construction of a local school building, and nobody considers that incendiary, or revolutionary. We have voted in Chicago and we have in the State on questions of the greatest magnitude, bond issues, franchises, commission forms of government, construction of school buildings, all upon the theory it was not wise to leave these questions of fundamental policy to the local legislative body. Delegates from Chicago are familiar with the way in which franchises started in this city. In this building was passed the Allen law, turning over to the street railway corporations the streets of Chicago for a term of fifty years, and it was expected that the City Council would pass that bill. The reason why they expected it was disclosed by the Municipal Voters' League, because they said in the council of sixty-eight members there were seven honest men and one doubtful, but no doubt about the others, and the citizens of Chicago, having no right of referendum, and being confronted with the loss of streets for fifty years, and by a law passed by corrupt methods and bought through the council, the citizens were helpless. They came down to the City Council, sat in the gallery of that body with ropes, and they dangled those down over the heads of the aldermen. Afterwards they thought of a better way, and it was the method of optional referendum on the franchise grant. That method was adopted not without a struggle. They said it was a complicated financial engineering service and how can the voters pass on it? Nevertheless the opinion prevailed gradually until in the City of Chicago now nobody would think of putting through a street car franchise in Chicago without submitting it to the voters of the city.

We also had the local referendum on the liquor question. Political issues became so involved it was deemed wise to separate that from the party situation, and most people were glad to have the question settled in that way. Many an anxious Democrat or Republican were glad to have the liquor question settled by the citizens, his fellow electors. In all these questions there was no matter of theory involved, in all these matters it was solely a practical question of check upon the legislative body and to have a vote upon fundamental questions of public policy, and if any one in the State of Illinois were to propose repeal of any of these forms of the referendum, whether constitutional referendum or the organic law or the statutory referendum on State bond issues or the local referendum on the local questions he would not be able to muster a corporal's guard in his support, and I think that not one of the gentlemen here object to those particular types of constitutional, statutory and local referendum. I may be mistaken upon that, but generally there is very little opposition.

Now comes the other question of the wider application and upon the use of the initiative. The initiative appeared in the American States not as a matter of theory again, but as a matter of experience. Nobody started out with any idea of arousing legislative bodies. Nobody started out with any new theory of American government, but there were many people who started and were still going on the task of providing some way of dealing with legislative inertia on the one hand, or legislative corruption on the other hand. Since the Constitution of 1870 was adopted a good deal of water had gone under the bridge, and it is well to look into some of the situations that altered the legislative situation. Since 1870 we have had development of powerful organizations which have been bigger than the legislature, or perhaps more accurately speaking, rivals of the legislative body, and one of them was the party machine, party boss in State affairs. At one time on a large scale after the Civil War, there you had the powerful unit of authority which was sometimes in the possession of giving the laws to the legislature itself, and then the industrial corporations. When the Constitution of 1870 was enacted the corporation was just beginning to show its head, a form of American industrial development by means of which great advances have been achieved, but which brought with it certain by-products of evils. The corporations became in many ways the rival of the legislature, and sometimes they became not only the rival of the legislative body, but its master. Sometimes there were groups that could order laws the same as they ordered specifications for a building. Sometimes there were corporations that ordered a law as they would order a lawyer to draw up a contract, and sometimes the bosses and the corporations got together, a happening often enough with abuses, frequent enough with scandal, unsavory enough to arouse the people of the country from inaction to action. I am not speaking now particularly of the State of Illinois, for the same thing was common to the whole country. I need not prove that to you, because it is conceded that railroads, public utility corporations and large private interests, whether seeking privileges or immunity, whether buying or being blackmailed, in many cases they had more to say in the legislative halls than the plain citizen outside. That was the beginning of a movement to provide a check upon the extravagant grant of privilege by legislative bodies or providing a spur where the legislature itself would not act.

In this very hall where we now are present, gentlemen, under this very feeling, many things happened that are not a credit to the history of the great state of Illinois. The passage of the Allen law went on against the protests of the people of Chicago, against the members and the decent sentiment of the people of the state. In this very place where your chairman now stands the Miller law was fought out. The Bill of Rights declares that five gentlemen may demand a roll call upon measures, but if 50 men rise and the Speaker does not see them, and he gavels the measure through, what are you going to do about it? You may have seen in this very rostrum a revolution of the legislative body, and the driving out of the Speaker at the back way, and the organization of the legislative body with a new and

temporary Speaker, all for the purpose of carrying through a law which certain public utility interests oppose, oppose to the very limit of suppressing the parliamentary right of members of the lower house and of this body. And that was not the last of them. I have no particular desire to do so and have no pleasure in relating to you the episodes of Jack Pot fame, that is all history, but in the proceedings of the Senate of the United States there is given in detail a record of the transactions which showed there was in the legislature of Illinois an organized system by means of which law was bought and sold. By means of which justice was paid for or denied in terms of currency. By means of which individual legislators formed a gang and went along voting for certain measures as they were told and when the sessions were over they were given their dividend upon what had been done. Now, following that there was held the Perry Conference in 1910. In view of this situation with the Perry Conference in 1910, they agreed on three propositions which they put upon the ballot under the public policy law of this State, and it carried by an overwhelming majority. I need not trouble you with those questions, but one was the adoption of the initiative and referendum as a means of checking legislative corruption.

Now, the initiative was applied for this purpose, because in a certain stage of industrial development it no longer became possible to get privilege, but the purpose was to prevent regulation, not to get something, but to hold what you had against all comers, including legislative action. You did not need to pay the legislature except for the sake of preventing public regulation from being passed.

Perhaps Illinois was no worse than other states, because the same sordid story can be told of New England States, Massachusetts, New York, Pennsylvania and Ohio and on out across the trail to California. The Southern Pacific on the Western coast, the New York, New Haven & Hartford and Boston & Maine on the Atlantic coast had more to say about the law making than the people of these sovereign States under what is presumed to be a really representative system.

Now, the I. and R. was designed, not for the purpose of having the people of the state pass the laws, but in case the laws were not passed by the legislative body, then upon proper petition and with reasonable safeguards, such propositions might be passed over the heads of the legislature, differing honestly sometimes, but over the heads of the sovereign law making body, and that is why it was proposed and the basis on which it received the majority vote on that proposition, and that is why the initiative and referendum have been incorporated in the laws of some twenty odd states of the Union.

Now, it has been said that these schemes are designed for the purpose of putting an end to representative government. Not at all. No intelligent representative of Initiative and referendum has ever supposed for a moment that the ordinary processes of law making by representative bodies would be supplanted or displaced, nor is it true as a practical matter where the initiative and referendum has been adopted, that the legislature has gone out of business.

I picked up the statute books of some of the States where they had the initiative and referendum to see whether the law making bodies had disbanded. California passed 1557 pages of law in 1919. I find that Colorado passed 604 pages of law, that Missouri passed 766 solid pages of closely type written laws; Ohio, 780; Oklahoma, 533 pages of laws; South Dakota, the pioneer of the field, 854 pages of laws; Nebraska, 1167, both of statutes enacted by the legislative body with the initiative and referendum still in the Constitution of that State, and occasionally being applied here and there as emergency might require. If anyone can discover in this the abandonment of representative government, I am unable to perceive it. If the practical operations of the very States that has this on the books show that the law making bodies are still functioning, what claim can there be that these new plans will overthrow the institutions of the fathers?

I went through the Michigan and Ohio Conventions and the Massachusetts Convention reports, and I have read in those pages the wildest predictions of calamity to the Bill of Rights and to industry and commerce and to the farmers and every other special group that you might conjure up in a given state as a means of arousing, I have no doubt, sincere alarm on the part of the movers and alarm on the part of the community. Is it possible that the initiative and referendum destroy the industrial prosperity of a community?

The State of California has been using the I. and R. for several years, and its farms and railroads are still running and its ordinary businesses are still being transacted and its large enterprises are still going on there. The State of Ohio has had the I. and R. since 1912, and I have not seen in any reports from Dunn and Bradstreet that the commerce is being impaired or that farms are being abandoned. Ohio is going on the principle of business as usual. Michigan has had it for a number of years, and Michigan is still a prosperous state. You might as well argue that the I and R. was the cause of commercial prosperity in the City of Detroit. It was not. But you could contend that because if it would cause that same prosperity in Chicago as in Detroit, we might well adopt it. Do not misunderstand me, I do not see any connection at all, but the alarm expressed in these bodies by intelligent men in regard to the effect of these institutions upon the prosperity and progress of their State have been shown to be unfounded.

It has been contended that the initiative was un-American. There are 30 million people today in States living under the I. and R. Is California disloyal and Michigan and Ohio, because they put the I and R. on their books? Did not you find overseas troops from Michigan fighting as bravely as those from Indiana. That was not the I. and R. Were not there just as brave men and gallant women making sacrifices here and abroad under this system as any other? Are the types of men who advocate the I. and R. of such a character that you can condemn them all of being un-American? The President of the United States, who has on many occasions advocated the I. and R., is not he a judge of representative government himself? Has not the man that was the President of the United States, and who is proclaimed as a great advocate of the I. and R., when he went before the Ohio Convention of 1912 and made his famous speech on charter and democracy advocating the I. and R., had he forgotten the Americanism that he learned from his ancestors and which he himself had written and lived in the hard daily affairs of life?

Is the Federation of Labor of Illinois unpatriotic? They have endorsed the initiative and referendum. Where they disloyal to American Government in the last war? Did not organized labor in the shape of Duncan McDonald and Walker stand solidly before the Governor for the principles of Illinois, and have they forgotten the teachings of their fathers and drifted away from the moorings of the Republicans, and this has been one of their favorite measures for years gone by. No, gentlemen, the initiative and referendum are not un-American, for no principle is more deeply wrought in the structure of American political institutions than the initiative and the referendum.

It has been said that we cannot admit the possibility of submitting to the ignorant mob these highly complicated intricate questions. How can they know what is in the law, many do not read or understand well. How can they understand these complicated questions? Well, gentlemen of the Convention, it is precisely the same people who elected you to your office. Were they gentlemen and scholars the day before you were elected and a mob the day after? If they are so pathetically and absolutely ignorant that they cannot pass upon complicated questions, then how do you think they are going to pass upon your amendments to the Constitution of Illinois? You are asking them to pass on intricate questions of public law. Are you making a mistake, or is there some fallacy in the argument? Some have said that the people are hasty and passionate, that they are violent, that they are hysterical. I have found in my experience that sometimes it is true in

a crowd the worst elements come out and the crowd becomes a mob raging like a beast, but more commonly out of a crowd of men when they deliberate on public questions with reasonable opportunity for discussion, out of them has often come something finer than any one of those men could have produced, out of the common interest, out of the common will of what some people please to call an ignorant crowd. But the truth is, the contention that the mass of the electorate are likely to be slower to accept the newer propositions than a law making body. They are less easily intimidated. You may hold a club over the head of the law-maker, but not the people of the State of Illinois. You may drive him into a panic, but you cannot drive the people of Illinois or Michigan into a panic. The people of the State are less subject to emotion than the legislative body itself. And examination of the legislative product of State after State show an abundance of freak and foolish law which would never have been approved by the people if submitted to them directly, as when the legislature of Texas undertook to make thirteen oysters in a dozen, and the legislature of Kansas tried to regulate the size of a piece of pie. The judgment and wishes of the people are the greatest conservative force of any State and the industrial and political equilibrium is preserved by the wishes and intelligence and judgment of the mass of the people. To attack the capacity of the people to pass upon fundamental questions, public policy is to attack the foundations of democratic government the world over. I will give you examples of that. In Missouri, under the spur of laboring men of that State, the legislature enacted a full train crew law, but the people of the State, the railroad men themselves said we will appeal to the electorate of Missouri. They took it before the voters of Missouri and the law was beaten. The legislature went faster than the people were prepared to go. In Oregon some men instituted an eight hour law. They secured an initiative petition; they probably thought it would be unanimously passed, but it was beaten by the voters of the State of Oregon.

If you examine the history of England you will find there that prior to the war when the radical party was in power, when the liberal labor party were in the conservatives were demanding the referendum as a means of appealing to the judgment of the English people over the head of the legislative body. Some have said that the minority are endangered by the initiative and referendum, that perhaps a sufficiently large number of people would not vote to justify the passage of a law. That applies much more to constitutional amendments than to statutory changes. If you were to provide that the results of your deliberations should not become the law of Illinois unless you got 50 per cent of the votes cast at regular election you will have a hard time. If you hold a special election of course there will be a lighter vote upon the question of adopting the proposal as a law or by ordinance. The fundamental principle of democratic government is majority rule. If the majority does not rule then you may be sure that the minority will rule. You may take your choice. If men will not vote, what standing have they in court? If the question is submitted and a man does not vote, why do you count him as voting no? You may assume that he did not care, was indifferent whether it went up or down, in or out. These objections that are made to the initiative and referendum are in the main the common objections that are urged against every type of political change. The government of the fathers is changing from generation to generation. If you went back to the original States you would find many things that you could not reconcile with our own government. You would find in Pennsylvania a one chamber legislature and you would find Benjamin Franklin saying a two-headed legislature was like a two-headed snake, trying to crawl through a hedge, not knowing which way to go. You will find every change touching the fundamentals of government have been fought by intelligent men who blindly believed that without their particular brand of democracy that progress would come to an end. In those days they did not have universal suffrage. In the days of our fathers the majority of men were disfranchised and a man could not hold office unless he had as high as 10,000 pounds in one case for Governor. When the attempt was made to enfran-

chise the adult male citizens who were white, John Adams, John Marshall, Monroe, Chancellor Kent, Judge Storey in the State of Massachusetts and Virginia and New York declared that the granting of the franchise to all adult male citizens meant the upturning of representative government, and they believed what they said. Women suffrage was opposed by gentlemen in the most eloquent speeches, who predicted a decline in political capacity on the part of the republic if women were given the right to vote. Fine speeches, full of logic and full of facts, were made by eminent leaders like Senator Root on the direct election of Senators; that was the subject of unbounded and fervid oratory of the most eloquent type; they believed that the direct election of Senators was the beginning of the end. Men like Senator Hoar, whose sincerity could not be questioned, could not reconcile himself to the election of Senators. They sincerely believed no new method that could be adopted that differed from that which they were familiar with, that the republican government could not continue.

Is it not true that democracy is a growth and that republican institutions develop? They are not dead, but from age to age and generation to generation were developed, were expanded, were applied the fundamental principles of democracy to these new conditions as they develop in our day. The development of the democratic spirit, of the spirit of human brotherhood and the development of democratic institutions are a slow process. Democracy is a great co-operative enterprise. No eye can see and no tongue can tell the full possibilities of democratic government as they will be unfolded to posterity. Each generation makes its contribution to the perfection of democratic government. One generation broke away from hereditary government; another generation achieved manhood suffrage; another broke the bonds of the slave; another emancipated women, and each new generation will do its part in the development of the democratic idea and spirit in concrete, practical working institutions.

What are some of the new conditions that 1920 sees before it? What are some of the new factors in the public life of Illinois and other States to which the initiative and referendum might be particularly applicable? One is the emancipation of women as voters. Unquestionably within a very short time women will be given not only partial suffrage they now enjoy but complete equal suffrage with the men. We know from the experience of suffrage States it will be many years before women sit in large numbers in this hall or in the hall across the way. We know they will function outside of the representative body, but with the initiative and referendum it will be possible for women much more easily and much more readily to enter into the public life of the State through the agencies of this body and of the upper house. Women may assist in the drafting of petitions, demanding referendum or laws they generally approve and they will measure and they will benefit by the educational influence of both upon questions of fundamental public interest.

Organized labor is another new force that is represented. How many men in this body carry a union card, and how many in the House and Senate, a handful. Organized labor does not function so much through the elected representative bodies entangled through the intricasies of the minority system, they do not get their full share of power. Under the I. and R. they may more directly and more effectively take their position in the public life of this commonwealth.

The middle class of Illinois is not as strong as it was. In the days following the Constitution of 1870 the farming group was powerful in Illinois. The will of the grange was law. They controlled law making bodies and elected men of their choice, and their voice was heard. I do not mean to say it is not heard now, it is from time to time, but the I. and R. to the extent it is implied would give labor and the middle classes a better chance to function.

Speaking now only in general legislation or Constitution making, we devise new principles to new kinds of conditions. Gentlemen have argued that under the I. and R. there would be a large number of laws. This is not true in practice. You can find instances where there are many laws

submitted. You may find instances where there are none or almost none, but you cannot say as a general principle on the basis of the experience that we now have that an excessive number of propositions will be submitted to the electorate in a given State; or it may be argued in the passage of the I. and R. legislation there is not sufficient care given to draft, towards the deliberations, that you might lose the element of compromise or concession which may be developed in the committee system of one or both the houses. I concede without hesitation the value of careful draftsmanship, but I must say that sometimes the picture of what occurs in a law making body is somewhat idealized; sometimes the deliberation is not particularly deliberate.

I remember riding home after one of the Illinois legislative sessions with a group of gentlemen who were recounting the number of laws they had passed. These men were not members of the legislature, but as the roll was called at 3 or 4 o'clock on Sunday morning at the last day of the session, the clock having been turned back to accommodate legislative needs, while many members of the law making body were asleep, worn out, indifferent or tired, these men voted to make the necessary votes to carry it along.

Ordinarily there is deliberation. If that deliberation is not given, there are ways and means of obtaining it, even in the initiative. The initiative plan of Illinois in 1913 provided for the indrect initiative. It provided as this Massachusetts plan, though not in the same way, and as the laws of many other states had provided, for the submission of all projects to the law making body for consideration by them, and in the event of the failure of the legislative body to enact the law, then the possibility of a subsequent vote by the people upon the proposition was brought before them. Three things might happen: The law might be passed, or something identical with it. Objections might be found in the law, errors in its drafting, flaws in its policy, which would lead to its withdrawal, or in the third event the law might go to the voters themselves.

The Illinois plan of 1913 you will find in your own volume on pages 156 and 7—your own Joint Resolution No. 17 before the legislative body in the year 1913.

The Illinois plan provided for a petition or reference to the appropriate committees for consideration by them, and provided that the proposed act must be placed upon the call in each house upon its final passage, and that if it failed in each house to receive the affirmative vote of one-fourth of the members elected in each house, then it should be submitted. In other words, you first have your petition of 8 per cent. Then you have your legislative consideration. Then you have a roll call in each house, and if it does not get in each house one-fourth of the members elected, it dies, but if, upon the roll call on its final passage, it received one-fourth of the vote in both houses, then in that event, after this petition and after this deliberation, then it went to the people of the State of Illinois. That was our proposition, and we believed it was a sound one.

Mr. HAMILL (Cook). Was that as introduced or as amended?

Mr. MERRIAM. That is practically as introduced. It was passed by the Senate by a very large majority, and it passed the House, but, as stated, when the requisite 102 votes had been received, one gentleman arose and withdrew his vote. Otherwise, in my judgment, the initiative and referendum would have been upon the Constitution of this State some years back.

We who advocate the initiative and referendum are as proud of America's past as you are, and as hopeful of its future. We are interested in the orderly development under the law. We are interested in the application of sound principles of statesmanship for the conduct of her public affairs. We recognize that there are no automatic devices by which good government can be mechanically obtained, and that there are no panaceas in the world of political and social control which will cure all the ills a body politic is heir to. We recognize the basic values in a republican government, and these we seek to strengthen and preserve. We point to the development of the initiative and the referendum in American institutions, to the presence of this principle in 44 States of this Union, and in full form in 20 of them.

You gentlemen are here to pass upon these propositions. Seldom in the history of the State of Illinois, if ever, have there been brought together as many representatives of wealth and intelligence and intellectual experience as you gentlemen represent. The State of Illinois rightly has hope that much may come out of this deliberative body.

There is in Illinois, as throughout the world, profound discontent in the mass of the people. There are many who are dissatisfied with the machinery of government, with its methods and with its program. We need not be deceived, gentlemen, as to the breadth and depth of the aspiration for a larger share in life by the many. They will not be denied. It extends throughout the civilized world, and it advances year by year with growing determination.

This is no ordinary hour, and the responsibilities of this body are not light. You cannot stop the democratic movement. You can check it for a time. You can throw against it, if you will, the weight of wealth, the weight of intelligence, the weight of culture, if you please, as Webster and Adams and Marshall and Kent and Storey threw their influence and sought to stop the democratic movement in their day, but the dam will break and the flood will go on. You must reckon with the facts, the ideals and the political forces, not of the year 1870, but of the year 1920, if you build a Constitution that will endure for another fifty years. You must reckon with the awakened liberty, with the spirit of intelligence and judgment, with the rising tide of democratic sentiment, which will not tolerate reaction or obstruction.

I meant to say to you, as Judge Dunne said this morning, that while this does not represent my own personal attitude and point of view—I hope there will be no misunderstanding—yet, in my judgment, if the initiative and referendum is not submitted to the voters of the State of Illinois, as the outcome of the constitutional deliberations of this body, there will be no new Constitution in this State at this time, and the five or six million dollars that have been spent for the expenses of this body and for the calling of the various elections and special elections, will not flower and blossom in a legislative product. I don't say that will be my personal attitude, but it is my firm conviction that that would be the attitude of the mass of the voters of the State of Illinois.

Four times the voters of this State have endorsed the initiative and referendum, in a period of eighteen years, and three times they have been denied. In 1902, in 1904, in 1910, in 1919, the people of this State, by a majority vote, have asked the law making bodies to submit this question for their determination. Twice the constitutional amendment has passed the Senate by more than a two-thirds vote, and finally in the very election in which the members of this Convention were chosen, the voters once more expressed their unmistakable wish that this question be submitted for their approval or rejection.

Unless you choose to disregard this expression of opinion four times in a period of eighteen years, how can you refuse to submit the initiative and referendum to the electors of this State?

The Convention of 1870, gentlemen, met in the shade of a Civil War, in which the world's greatest democracy had been preserved, with the words of Illinois' first citizen and the world's greatest democrat ringing in the ears of the people. This Convention meets in the shade of a still greater war, in which the whole world has been made safe for democracy. You are convened to meet the change of new conditions developed in fifty years of unparalleled growth. It is now your high privilege to submit a new organic law on behalf of the voters of this State who have four times expressed their will. We once more travel down the Springfield trail. We once more come to you asking you to make adequate provision for the incorporation of the initiative and referendum in the Constitution of Illinois. (Applause.)

Mr. HAMILL (Cook). With the permission of Captain Merriam, I should like to put some queries to him.

Mr. MERRIAM. I would be very glad to have you, Mr. Hamill.

Mr. HAMILL (Cook). Let me preface by saying that I have enjoyed and profited very much by your learned and eloquent talk. May I ask if you personally approve of the form of the proposal now under discussion?

Mr. MERRIAM. Mr. Hamill, you ask as to my personal preference. I did not assist in the drafting of the words that went on the ballot, nor in Proposal 133. My own personal idea was expressed in the amendment of 1913, to which I referred.

Mr. HAMILL (Cook). Do you disapprove of Proposal 133?

Mr. MERRIAM. If you had to vote yes or no, you are asking which I prefer?

Mr. HAMILL (Cook). If you were sitting where I am, and you were given a choice to vote yes or no on 133, which would you adopt?

Mr. MERRIAM. I would vote yes if it were that alternative. You would also have the alternative of submitting, if you like, another proposition of your own. You have your own liberty to interpret your instructions. I am not keeper of your conscience on that.

Mr. HAMILL (Cook). If you were a delegate to this Convention, you would prefer to have Proposal 133 so modified as to provide for an indirect initiative?

Mr. MERRIAM. That would be by personal preference.

Mr. HAMILL (Cook). Do you think that one voting for such a proposal would comply with the vote at the election of last November?

Mr. MERRIAM. Well, now, Mr. Hamill, I am not keeper of the constitutional conscience.

Mr. HAMILL (Cook). I am asking you how you feel about it.

Mr. MERRIAM. I think if I wanted to strictly comply with the vote, I would submit it as it came, but I would also submit another one along with it, providing, if they are both adopted, that the one that had the higher vote would be the law.

Mr. HAMILL (Cook). You would then, if I understand you correctly, if you were a delegate to this Convention, not only vote for an amendment to the Constitution, which would provide for an indirect initiative, but you would also vote for submission to the people of substantially 133?

Mr. MERRIAM. That would be one solution of it, yes.

Mr. HAMILL (Cook). That is not what I am asking you. I am asking if that is what you would do if you were a delegate.

Mr. MERRIAM. If I were a delegate, as far as I have thought that out, I would vote to submit 133 and an alternate proposal.

Mr. HAMILL (Cook). Were you present here this afternoon when Dr. Bigelow spoke?

Mr. MERRIAM. Yes, I was, Mr. Hamill.

Mr. HAMILL (Cook). Do you recall the explanation he gave of the fact that proposals on Initiative and Referendum have a lesser vote than candidates?

Mr. MERRIAM. I do.

Mr. HAMILL (Cook). Do you think that is a sound explanation?

Mr. MERRIAM. I don't know that I would agree with him on that. The candidates, of course, have the party machinery back of them, and, of course, as everybody knows, on election day the party managers check up on people who have not voted. They bring in large numbers of people, and make a special effort to get them to vote for particular men.

Mr. HAMILL (Cook). If I understand Dr. Bigelow correctly, he intimated, if he did not assert, that it was the more ignorant voters who failed to vote upon the proposals, and they did vote for candidates, and he intimated that the vote upon proposals was therefore a more intelligent vote than upon candidates. Did you so understand him?

Mr. MERRIAM. I don't recollect just what he said upon that particular thing you are speaking of now. You may be correct.

Mr. HAMILL (Cook). Do you recall that he mentioned a particular precinct in Cincinnati where there were three hundred votes for Mr. Taft and nineteen upon a tax question, in some particular precinct where he said the electors were not of a very high grade of intelligence?

Mr. MERRIAM. I don't recall his saying that. I didn't listen to everything that was said.

Mr. HAMILL (Cook). You don't think, then, that the explanation of the lesser vote upon proposed measures than is given to candidates is to be found from the fact that the more ignorant and less qualified voters vote for candidates and do not vote upon proposals?

Mr. MERRIAM. I would not say that is the only cause.

Mr. HAMILL (Cook). You think that is one of the couses?

Mr. MERRIAM. That is hard to say. I have talked to many people as to whether they voted for persons and for measures, and you get different answers. Sometimes a man says, "I don't care." He is a satisfied voter. He doesn't care. Other men would not understand the measure. Others don't seem to know why they don't vote.

Mr. HAMILL (Cook). By "satisfied voter" you mean a man who is satisfied with conditions as they are?

Mr. MERRIAM. He has heard both arguments, and he doesn't see how they affect him one way or the other. Sometimes in voting for office you don't know which to vote for.

Mr. HAMILL (Cook). Very frequently it happens. If I understand you correctly, you would submit to the electors of our Constitution a proposal substantially like Proposal 133, which, if I understand correctly, permits amendments to the Constitution to be made quite as easily and freely as statutory enactments. Do I understand you correctly on that?

Mr. MERRIAM. Yes, Mr. Hamill. You are insisting, however, on my saying what is really up to each delegate for himself to decide as to how he interprets those instructions.

Mr. HAMILL (Cook). I am trying to get your views.

Mr. MERRIAM. Yes; I would say that is what I would do, as I see it now.

Mr. HAMILL (Cook). Do you think it is wise to put in a Constitution a bill of rights?

Mr. MERRIAM. Yes; although since the war, and practically since the Constitution of 1870, the protection of fundamental rights, as you know better than I, comes largely under the fourteenth amendment, as many of the things that the bill of rights guaranteed against are covered by the due process of law and equal protection of the law clause.

Mr. HAMILL (Cook). Quite true. Under the fourteenth amendment you have protection for most of the rights that are also provided in the State Constitution. Do you think that for that reason we might wisely omit from the State Constitution the securities of those rights, and rely solely upon the Federal Constitution?

Mr. MERRIAM. I would not vote to stike that out.

Mr. HAMILL (Cook). You think they have value?

Mr. MERRIAM. I think it wise to leave them there.

Mr. HAMILL (Cook). Do you think that among those rights should be included liberty of religiuos worship?

Mr. MERRIAM. Yes.

Mr. HAMILL (Cook). And freedom of the press?

Mr. MERRIAM. Certainly.

Mr. HAMILL (Cook). Why; what is the use of them?

Mr. MERRIAM. Well, do you want me to give a discourse on the historic origin of the fundamental guaranties?

Mr. HAMILL (Cook). I would like to have your views as to what value they are.

Mr. MERRIAM. I would be glad to file a memorandum on that. I don't care to go into all that this evening.

Mr. HAMILL (Cook). You could answer it in about one sentence, couldn't you, Captain?

Mr. MERRIAM. I will be glad to submit a memorandum.

Mr. HAMILL (Cook). Won't you answer it now?

Mr. MERRIAM. No, I will file a memorandum on that, if you like.

Mr. HAMILL (Cook). I would like to have an answer now.

Mr. MERRIAM. You will get it in the form of a memorandum if you want it.

Mr. HAMILL (Cook). You are unwilling to answer it now?

Mr. MERRIAM. I stated my position I think.

Mr. HAMILL (Cook). Don't you think they have their value as to protection of the minority?

Mr. MERRIAM. That is the same question over again.

Mr. HAMILL (Cook). You don't want to answer that question over again? It is not the same question.

Mr. MERRIAM. I so construe it, and I give you the same answer then, according to schedule.

Mr. HAMILL (Cook). Don't you think the referendum of the State banking law has been of value?

Mr. MERRIAM. It may have been, Mr. Hamill, at the time it was adopted, but I don't think now it is. As I said in my remarks, I think that a mandatory referendum on the banking law is not a good thing now, although it may have been at the time they put it in.

Mr. HAMILL (Cook). I understood you to say, in your opinion, many a republican and many a democrat was glad to have the liquor question settled by a popular vote, local option. Did you mean by that that many members of the Legislature would have been glad to have it so settled?

Mr. MERRIAM. No, I meant in the local communities.

Mr. HAMILL (Cook). Why did you speak of democrates and republicans?

Mr. MERRIAM. I would prefer not to have it made a party issue. I would rather have it settled by a direct referendum. A man may go up or down on either of those issues, even though he may be a good man.

Mr. HAMILL (Cook). I understood you to say that Mr. Wilson had on many occasions—speaking of President Wilson—advocated the initiative and referendum. Governor Dunne was so kind as to read to us this morning a quotation from an address by President Wilson, or a magazine article, I don't recall which, in which he said that it was not the intention of the initiative and referendum to destroy republican government or impair republican government. Is that the article that you had in mind, or have there been other occasions that you recall?

Mr. MERRIAM. There were several occasions, Mr. Hamill. I don't know which one Governor Dunne was referring to.

Mr. HAMILL (Cook). Can you refer to any particular one?

Mr. MERRIAM. If you will go to the debates of the Massachusetts Convention, I think, you will find three of them. If you want the page I can give it to you. It is in your library.

Mr. HAMILL (Cook). At the time that President Wilson so expressed himself, it was after he had entered into public life, was it not?

Mr. MERRIAM. Yes.

Mr. HAMILL (Cook). A candidate for office?

Mr. MERRIAM. I don't know whether he was a candidate or not. He said at the time that he had been against it before.

Mr. HAMILL (Cook). Was it more than three years and a half ago?

Mr. MERRIAM. I don't recall the date of that, Mr. Hamill.

Mr. HAMILL (Cook). Well, practically from 1900 until three years ago President Wilson has been a candidate all the time, hasn't he, for one office or another?

Mr. MERRIAM. From 1910, wasn't it?

Mr. HAMILL (Cook). That is when he was first elected President, yes, but he had been Governor of New Jersey before that, had he not?

Mr. MERRIAM. Wasn't he elected Governor of New Jersey in 1910?

Mr. DEYOUNG (Cook). 1910.

Mr. HAMILL (Cook). Do you know of any instance of President Wilson expressing approval of the initiative and referendum before he was a candidate for office?

Mr. MERRIAM. I don't know; I couldn't fix the date, but I can get that for you very readily.

Mr. HAMILL (Cook). Do you recall, in 1898, in his work "The State," pages 311 to 313:

"The vote upon most measures submitted to the ballot is usually very light; there is not much popular discussion, and the referendum by no means creates that quick interest in affairs which its originators had hoped to see it excite. It has dulled the sense of responsibility among legislators without, in fact, quickening the people to the exercise of any real control in affairs. * * * Where it (the initiative) has been employed it has not promised either progress or enlightment, leading rather to doubtful experiments and to reactionary displays of prejudice than to really useful legislation. * * * A government must have organs; it cannot act inorganically by masses. It must have a law-making body; it can no more make law through its voters than it can make law through its newspapers."

Mr. MERRIAM. He said substantially that, and in one of his earlier addresses he referred to it himself.

Mr. HAMILL (Cook). He was not a candidate for office at that time, was he?

Mr. MERRIAM. No.

Mr. HAMILL (Cook). You referred, if I understood you correctly, to the growth of corporate power, having financial interests on the one end of the social scale and having organized workers at the other end, indicating that, in your judgment, the initiative and referendum afford a useful means of protecting those who stay between, the middle classes; did I correctly understand you? And you instanced the farmers and some of the middle class.

Mr. MERRIAM. Yes.

Mr. HAMILL (Cook). Can you give any explanation of the fact that those are the very people who have been against the initiative and the referendum?

Mr. MERRIAM. No, I could not, Mr. Hamill, because I would not agree with your premise. The first state that adopted it was South Dakota.

Mr. HAMILL (Cook). Can you give any explanation of the fact that in the last election, last November, in this State, the initiative and referendum were beaten outside of Cook county, but most notably in the rural districts?

Mr. MERRIAM. I don't know the explanation of that.

Mr. HAMILL (Cook). You said it was not true that the voters were swamped with a large number of proposals. Have you seen the pamphlet put out by the authority of the State of Oregon, for the election of 1912, which I hold in my hand?

Mr. MERRIAM. I have seen various types of them, Mr. Hamill. I don't know whether I have seen 1912.

Mr. HAMILL (Cook). It contains 262 closely printed pages, which contain the proposals submitted to the voters, with some argument for and against. From the index on page 259 I find that there were 24 acts proposed, 2 amendments to acts, and 18 constitutional amendments; do you recall that?

Mr. MERRIAM. I don't recall those numbers, no.

Mr. HAMILL (Cook). What percentage of the electorate in the State of Illinois do you think could read and digest, so as to make intelligent votes, the pamphlet I hold in my hand?

Mr. MERRIAM. I am not the type of a statistician that could give you the figures on that.

Mr. HAMILL (Cook). Well, give us your judgment.

Mr. MERRIAM. It would not be worth anything. The same number that can read and intelligently interpret the Constitution that you are going to submit to them. (Laughter.)

Mr. HAMILL (Cook). If the Constitution be such a Constitution as would result from amendments by initiative, I would quite agree with

you; if it be such a Constitution as was submitted in Ohio, I would quite agree with you, but if it be a Constitution confining itself, as, in my opinion it should, to simple fundamentals, you are obviously mistaken.

Mr. MERRIAM. I may be; I have been before.

Mr. HAMILL (Cook). What vote was it to which you referred, in 1904, as having approved the initiative and referendum?

Mr. MERRIAM. I can find the list of them in your own publication, number 2, local veto on local legislation.

Mr. HAMILL (Cook). That is all that you intended to refer to?

Mr. MERRIAM. In 1904 that is all there was. There are three propositions there. I didn't intend to mislead anyone. It is all in your own book here. That is where I took it from.

Mr. GALE (Knox). You said, I believe, you personally were in favor of the indirect initiative, rather than this. Is that because you believe in the deliberation upon, and debate upon, and consideration of measures before they become laws, rather than in the treating of them by any men or committee, without criticism on them; is that the reason?

Mr. MERRIAM. I had two elements in mind—the element of draftsmanship and the element of deliberation.

Mr. GALE (Knox). I want to ask you if it does not seem to you that this Proposal 133 illustrates the need of that? I may be mistaken about that, but as I understand it—and you can right me if I am wrong—this proposal itself is drawn after great consideration by the Initiative and Referendum and Gateway Amendment League. I am right on that, am I not, Captain?

Mr. MERRIAM. I am not a witness on that.

Mr. GALE (Knox). Has there not been a great deal of attention given to that?

Mr. MERRIAM. I am not a competent witness on that.

Mr. GALE (Knox). You did not have anything to do with drawing this proposal?

Mr. MERRIAM. No.

Mr. GALE (Knox). I understood from what you said this morning that that was true. Isn't it true that this proposal itself has forgotten to take care of the situation that would arise if two proposals happen to be submitted, as I understand was the case in Colorado once and was the case in Ohio once, so that there would be no way of telling which of those two proposals should become the law? Now, that ought to be taken care of in any initiative proposal, ought it not?

Mr. MERRIAM. It ought to be covered, yes.

Mr. GALE (Knox). And it is not covered in this Proposal 133. Isn't that an indication that the indirect initiative is a broader thing than the direct initiative?

Mr. MERRIAM. We agree on that, sir.

Mr. GALE (Knox). Then I want to ask you one other question. You spoke about the trust reposed in us here by the people of Illinois, and of what you believed to be our duty. We are here, are we not, under the provisions of the Constitution of 1870, which was itself an instrument of the people? I am right on that, am I not?

Mr. MERRIAM. Under the authority of the Constitution of 1870, yes, sir.

Mr. GALE (Knox). And under that Constitution we have to take an oath to support that Constitution and the Constitution of the United States, and that being true, aren't we recreant to our trust as delegates here if we permit ourselves to be pledged or bound by any individual or by any set of men?

Mr. MERRIAM. It would not seem so to me.

Mr. GALE (Knox). You don't think, when you take oath under the provisions which the people themselves put in the Constitution of 1870, and obliged as we are to take that oath, you don't think that that means that we may not conduct ourselves with responsibility only through our agents here?

Mr. MERRIAM. Of course, that raises a question.

Mr. GALE (Knox). When we come here under that Constitution, isn't it true that we would be recreant to our trust if we allowed ourselves to be bound by any pledges whatever?

Mr. MERRIAM. I would not say so, no.

Mr. GALE (Knox). What would you say of the situation of those of us who come from districts where the initiative and referendum failed to carry, although it carried throughout the State; by which vote are we bound?

Mr. MERRIAM. If all of you vote who voted in the districts in which it carried, it will go through.

Mr. GALE (Knox). And those of us who come from the other districts, what about our votes?

Mr. MERRIAM. If you vote against it, it won't go through. That is the old, old question of whether you are governed by your district or by the State. I could not solve that. It has come up in the presidential primaries.

Mr. TRAUTMANN (St. Clair). I would like to ask the Captain a few questions. Before I ask those questions, I would like to ask a personal question. Captain, are you a member of the league?

Mr. MERRIAM. Yes; Initiative and Referendum League.

Mr. TRAUTMANN (St. Clair). Do you know their attitude with reference to Proposal 133 and Proposal 134; in other words, I want to ask you the same question I did Governor Dunne: Is it the object of the league to have this proposal incorporated in the Constitution and then have it submitted as a separate proposition, so that in case the new Constitution fails of approval, the separate proposition, if carried, would become effective and part of the Constitution of 1870?

Mr. MERRIAM. Whether that is their position?

Mr. GALE (Knox). Yes.

Mr. MERRIAM. I coudn't say as to that. I was not present at any meeting where that matter was discussed, and have not been informed.

Mr. GALE (Knox). The reason I am asking is this: If it is submitted both ways, whether or not the advocates of the Initiative and Referendum proposition would advocate the adoption of the separate proposal and the defeat of the entire new doctrine——

Mr. MERRIAM. I would not suppose so. I have no authority to speak on that, Mr. Trautmann. I assume the advocates of the Initiative and Referendum as a whole are just as desirous of building up a good Constitution as anybody; whether they would favor submitting a document as a whole, I don't know; it may not be any of their concern.

Mr. DEYOUNG (Cook). You recognize, Captain, the distinction between constitutional and statutory measures, do you not?

Mr. MERRIAM. I think I do in general; sometimes it is rather vague.

Mr. DEYOUNG (Cook). Would you put both of them on the same level, that is, a constitutional amendment and the ordinary statutory amendment?

Mr. MERRIAM. I would make it a little more difficult to amend the Constitution.

Mr. DEYOUNG (Cook). You would throw some safeguards about a proposed constitutional amendment that may not be necessary in your opinion in the case of statutes?

Mr. MERRIAM. I would personally, yes.

Mr. DEYOUNG (Cook). And you prefer the proposed amendment of 1913 that failed of enactment as you say by a single vote in the House of the General Assembly as against the pending Proposal 133?

Mr. MERRIAM. That is not the position of the league; it is my personal opinion, or substantially that.

Mr. DEYOUNG (Cook). In your address to this body you have voiced your personal opinion.

Mr. MAYER (Cook). What page is that on?

Mr. MERRIAM. Pages 56 and 57 of your document number 2.

Mr. DEYOUNG (Cook). You have expressed your personal opinions, have you not, in your address to this body?

Mr. MERRIAM. Yes; because you began asking me what my personal opinion was.

Mr. DEYOUNG (Cook). You have done that?

Mr. MERRIAM. I said nothing about that particular form of Initiative and Referendum. I think the league would probably agree to everything I said up to the time that Mr. Hamill began asking me my personal opinion.

Mr. DEYOUNG (Cook). What you said in your address, is, however, your personal views?

Mr. MERRIAM. Also my personal views.

Mr. DEYOUNG (Cook). Now, the proposed amendment of 1913 contemplated only the Initiative with reference to legislation and not constitutional amendments?

Mr. MERRIAM. Statutory, yes.

Mr. DEYOUNG (Cook). Only.

Mr. MERRIAM. Only.

Mr. DEYOUNG (Cook). Even if the resolution had been adopted by the General Assembly and ratified by the people, it would have had effect only with reference to legislation and not with reference to amendments to the Constitution?

Mr. MERRIAM. Yes.

Mr. DEYOUNG (Cook). In that respect it differs from Proposal 133, which is based upon the same plan and permits changes in the Constitution with the same facility that statutory enactments might be effected.

Mr. MERRIAM. Don't let me get confused. I favor putting into the 1913 resolution also a constitutional initiative.

Mr. DEYOUNG (Cook). But not with just the safeguards which are contained with reference to statutes?

Mr. MERRIAM. I would have put on something more.

Mr. DEYOUNG (Cook). Something in addition?

Mr. MERRIAM. Yes.

Mr. DEYOUNG (Cook). And you don't agree in that respect with Proposal 133.

Mr. MERRIAM. Personally.

Mr. DEYOUNG (Cook). And you believe a Constitution is something more sacred than merely things with which the legislature is concerned, or with which the initiative as a statutory process ought to be concerned.

Mr. MERRIAM. I would put some more safeguards aroud it, but not enough to make it impossible to operate.

Mr. DEYOUNG (Cook). I am not asking that. I am just asking what your ideas are.

Mr. MERRIAM. In this No. 133, you have a hundred thousand votes required—no; it is the same, isn't it?

Mr. DEYOUNG (Cook). There is no distinction between them. The hundred thousand votes specified would be something less than four per cent of the total vote in this State?

Mr. MERRIAM. I don't think the members of the league insist on the text of this particular draft, as I understand it.

Mr. DEYOUNG (Cook). Don't you know, Captain?

Mr. MERRIAM. The draft will be worked out by the committee.

Mr. DEYOUNG (Cook). Don't you know, Captain, that candidates for the office of delegate at the last election were asked to sign, which is equivalent to directing them to support this specific thing if elected to this body?

Mr. MERRIAM. Possibly they were, but not this draft.

Mr. DEYOUNG (Cook). The specific thing which contained the essentials that this draft does—a hundred thousand initiating petitioners, and a majority voting, and if without any other safeguards on the ballot, would you say, if a candidate for the office of delegate said very plainly to his constituents that he would not recognize and would not support any such proposition, whatever the vote upon the question in his district might be, would you then still say that he was bound, if he occupied a place in this

chamber, to vote for that proposal where the public well knew what his position upon that question was?

Mr. MERRIAM. Well, one man said he would and one said he would not.

Mr. DEYOUNG (Cook). Suppose he said that he could not, even if elected, support any such proposition as contained upon the public policy question; would you still say he was in conscienee bound to support such a measure here?

Mr. MERRIAM. I don't think the voters passed on it in my district. For instance, they elected Senator Hull and Colonel Davis. They also elected in the thirteenth district Mr. Sutherland and Mr. Wolff. Mr. Sutherland is against it; they elected Mr. Sutherland and they also carried the proposition by a considerable majority. Isn't that correct, Mr. Sutherland?

Mr. SUTHERLAND (Cook). That is correct.

Mr. MERRIAM. It very often happens that way on the referendum proposition; you want to keep a person in, and still you differ with him on a particular measure.

Mr. DEYOUNG (Cook). You would not say in that case, would you, Captain, that the candidate elected would have to follow those instructions, would you, even as a moral proposition?

Mr. MERRIAM. I would say that the candidate ought to try to go along with the popular vote.

Mr. DEYOUNG (Cook). If you were a member of this body, although you disapprove, or at least do not approve Proposal 133, you would support it, however, just because of a public policy question which you say is not legally binding?

Mr. MERRIAM. I would.

Mr. DEYOUNG. (Cook). You would submit it along with something of your own draft which you say is superior; you would submit the two together?

Mr. MERRIAM. That is what I said to Mr. Hamill as far as I thought it out, the matters I have spoken of. I don't know how you would work that out.

Mr. DEYOUNG (Cook). You have said also, Captain, that the same people who elected these delegates to office are the ones who will finally vote for the ratification or rejection or anything that is framed in this body?

Mr. MERRIAM. The same electorate, except the women may vote in addition.

Mr. DEYOUNG (Cook). And you say also that they might just as well vote upon questions submitted under the initiative as for questions upon the constitution itself?

Mr. MERRIAM. Yes.

Mr. DEYOUNG (Cook). Do you not recognize a difference, Captain Merriam, between a proposition submitted under Proposal 133, if made effective which is absolutely independent of amendment, and which must be voted up or down without amendment—do you not recognize a clear distinction between that and a constitution which deals with fundamentals which is prompted by a body elected by people of the whole State, after much deliberation and consideration and many arguments such as have taken place here today?

Mr MERRIAM. I don't know that I got the full drift of your question, Mr. DeYoung; you are a very clever lawyer.

Mr.DEYOUNG (Cook). Not at all. Well, in substance, it is this: Don't you recognize that there is a very clear difference between a proposed constitutional amendment submitted under the initiative without any opportunity to amend, which comes from no source perhaps where there has been discussion or deliberation, and a constitution that is framed in a body leargely elected by the people after at least some consideration of the personality, character and ability of the candidates and the dis-

cussion that must take place during the weary weeks and months, if you will, that will be required to frame such a thing?

Mr. MERRIAM. I pay the highest tribute, in my feeble way, to the capacity of this body.

Mr. DEYOUNG (Cook) I am speaking impersonally.

Mr. MERRIAM. I am speaking personally of the membership.

Mr. DEYOUNG (Cook). Do you not believe that a Constitution may be framed by those who have had the opportunity of that deliberation and that discussion which necessarily obtains in a convention of this character, as well as in a legislative body?

Mr. MERRIAM. You gentlemen have the ability and the brains to construct the finest Constitution that ever was.

Mr. DEYOUNG (Cook). Would you say, Captain, as a matter of pracability that a proposed constitutional amendment which may not have a sound doctrine behind it can be as successfully submitted for approval or adoption as a Constitution framed in a Constitutional Convention where it may be discussed and deliberated upon?

Mr. MERRIAM. I should say a one man Constitution is difficult to frame.

Mr. DEYOUNG (Cook). Or even a one man proposed amendment to the Constitution?

Mr. MERRIAM. Yes.

Mr. DEYOUNG (Cook). Hasn't your observation of a legislative body disclosed to you on many occasions that no matter how well thought out a proposed simple legislative matter may be when it was introduced, it was improved by the discussion and by the arguments that were had upon it in the legislative body?

Mr. MERRIAM. Yes, so far as intelligence goes, Mr. DeYoung, I agree with you on that. I was in the legislative body for six years, and have watched this body many times, and after the greatest elegance of draftsmanship and careful deliberations, and so on, I have seen pretty good bills spoiled down here.

Mr. DEYOUNG (Cook). Sometimes that is a matter of opinion and sometimes it is a fact.

Mr. MERRIAM. Sometimes it is a matter of opinion.

Mr. DEYOUNG (Cook). Isn't it true that measures that do have the consideration of legislative committees and legislative bodies are improved in the process?

Mr. MERRIAM. If the work is done in good faith.

Mr. DEYOUNG (Cook). Isn't that generally true?

Mr. MERRIAM. I think so, except it is not always done in good faith.

Mr. DEYOUNG (Cook). Well, neither might an amendment to the Constitution submitted under the initiative always be in good faith, as demonstrated by measures submitted of a mere statutory character which have not been submitted in good faith.

Mr. MERRIAM. The charter of 1907, article 16, gave the city power to acquire and operate municipal utilities. I went away for two or three days and came back and found that between sunrise and sunset someone had put in this a proviso that the property should not be used for the same purpose as originally used. That is where superior intelligence had been working on it. You could require the street railway systems to tear up the rails and use the cars for kindling wood.

Mr. DEYOUNG (Cook). You also admit, and your experience and your observation have demonstrated that candidates for office usually have a larger vote than even measures of a constitutional order?

Mr. MERRIAM. Except in the case of judges.

Mr. DEYOUNG (Cook). When judges are elected at a special election, that may be true, but I am speaking of the ordinary candidate for public office; he attracts more attention and a larger support than even some of the fundamental questions such as constitutional amendments?

Mr. MERRIAM. Yes, constitutional amendments sometimes suffer; sometimes statutory amendments, particularly in the down State.

Mr. DEYOUNG (Cook). Isn't it also true that an elector can pass more readily upon qualifications and character of a candidate than he can pass upon the effect of a statute or its desirability?

Mr. MERRIAM. I am not so sure of that.

Mr. DEYOUNG (Cook). You would not say the reverse was true, would you, if you were in doubt about it?

Mr. MERRIAM. I would not say yes or no. You may be deceived in the personality.

Mr. DEYOUNG (Cook). As a general proposition, it is not so difficult to say, and, in any event, men come and go in public office, don't they?

Mr. MERRIAM. Yes.

Mr. DEYOUNG (Cook). And a policy once inaugurated may be of a longer period or may be in effect longer than any man could possibly hold a public office?

Mr. MERRIAM. Not necessarily.

Mr. DEYOUNG (Cook). Isn't it a fact that the majority of the statutes enacted by a legislative body have a much longer tenure than the average term which the public officer could occupy the office?

Mr. MERRIAM. I suppose if you compare the average law and the average law-maker, the law lasts longer than the law-maker.

Mr. DEYOUNG (Cook). Isn't it more important to vote intelligently upon questions even of a statutory order than it is to put men in public office, generally speaking?

Mr. MERRIAM. They are both important. I would not classify them.

Mr. DEYOUNG (Cook). If there is a difference, isn't the measure of the greater importance?

Mr. MERRIAM. I would not say so, much as I would like to agree with you on that.

Mr. DEYOUNG (Cook). I am not talking about the office of Governor, nor perhaps of a somewhat important judgeship, nor even legislators, but taking all the way through, all of the officers.

Mr. MERRIAM. The trouble is, if you take the average, I don't know how important it is. You have to vote on the county surveyor, and you have to average the county surveyor and the county marshal.

Mr. DEYOUNG (Cook). You will admit, I think, it is more important to vote intelligently upon the traction question in a large city than a single alderman?

Mr. MERRIAM. Well, I should say on the whole you get a very intelligent vote on the traction ordinances.

Mr. DEYOUNG (Cook). I am not speaking of that, because I don't happen to live in Chicago.

Mr. DIETZ (Rock Island). Would you consider that a document such as the Constitution of the United States could have been produced or could be produced through the processes of the Gateway Amendment?

Mr. MERRIAM. I don't know as to that. It would depend a good deal upon who drafted it, I suppose.

Mr. DIETZ (Rock Island). I mean by that to adopt the framework, the whole framework of government such as is necessary in a Constitution; may that be done well?

Mr. MERRIAM. My position is on that, that improvement is made by these two devices, one for check and one for spur, and that is what should be used.

Mr. DIETZ (Rock Island). But wouldn't the people be sufficiently protected in the use of the spur if a full majority of those who voted to select the members of the legislature were required to pass a measure over their heads? That is, if the public was sufficiently aroused, if the necessity was severe, so severe that it became important to take that action, couldn't you get that majority to act? Would not that be a fair proposal, such a majority as that?

Mr. MERRIAM. That is unfair, and in 1911 and 1913 we refused to stand expressly for that. We said if that was put in the bill we considered that would render the whole thing ineffective.

Mr. KERRICK (McLean). I would like to ask a question or two for the purpose of acquiring information from what I consider to be a very appropriate source. Is the legislature, General Assembly, competent to provide any other or additional means to create or assemble a Constitutional Convention to revise, alter or amend the present Constitution than is provided for in the present Constitution itself?

Mr. MERRIAM. I would not suppose so, I do not know what you have reference to. There are two ways of calling a legislature.

Mr. KERRICK (McLean). The legislature has enacted or provided by law for the submission of what are known here as public policy questions. The submission of the questions that are under discussion now had no legal existence except through the public policy act, I presume?

Mr. MERRIAM. Act of 1901.

Mr. KERRICK (McLean). Now, in the mode provided in the Constitution itself, no provision whatever was made, no reference was made to anything in the nature of public policy questions being submitted to the voters, a question which directly injects itself into the possibility of framing or rather in the language of Constitution itself, amending, revising and altering the Constitution. If the Constitution does nto admit anything of the kind how is the so-called public policy question, which was the genesis of the proposition under consideration, of any legal efficacy of any kind whatsoever in the matter of regulating or controlling in any wise the conduct of this Convention in amending, altering or revising the Constitution?

Mr. MERRIAM. You have two questions, whether it is legally binding, no. Binding in any manner whatsoever, yes.

Mr. KERRICK (McLean). I am reading from the provision of the Constitution itself with regard to what can be done, and what only can be done relative to the organization of this body: "Whenever two-thirds of the members of each House of the General Assembly shall by the vote entered upon the journals thereof concur that a convention is necessary to revise, alter or amend the Constitution the question shall be submitted to the electors at the next general election." The question as to whether there shall be a Constitutional Convention. "If the majority voting at the election vote for a Convention, the General Assembly shall at the next session provide for a Convention to consist of the total number of members of the Senate to be elected in the same manner and at the same place and in the same districts." That is all that has reference to the matter I am inquiring about. My position is, I will take the liberty of saying, although I am asking questions, my position is that the proceedings by which a proposition is placed before the electorate of the State of Illinois called a public policy question, and which in effect pointed out the very matters that it was aimed to inject into the Constitution itself was absolutely without any—not only without any authority at all, but without any excuse whatever, and that it has and can have no binding force upon any member of this Convention any more than if it had been an article advocating the principles contained in these questions in some newspaper. Now, the courts never reached the point of deciding whether or not that was a public policy question. I undertake to say that the Secretary of State would have been fully justified in refusing to consider it as a matter to be placed on the ballot and to be submitted to a vote at the expense of Illinois. However, he did not look at it in that way, and was intending to place it on the ballot. That led to litigation which ended nowhere because when it reached the Supreme Court the Supreme Court disposed of it not by deciding whether or not it was a public policy question, but by deciding it was a political and not a judicial question, so we have no decisions of any court that that proposition had any right to exist at all, or that the electors of this State should be troubled about how to vote on that proposition, so my opinion with reference to that is that it is as if it had never existed. Now, having said that for what it may be worth, I would like to inquire, Captain Merriam, why it was that in all of your able and extremely interesting address, one of the most interesting to which I have had the pleas-

ure of listening, your entire discussion, your entire elucidation of the operation of the initiative and referendum in all the states in which it was operated be devoted exclusively to its effect upon legislative enactments only; we have not had the benefit of any discussion whatever from you as to what you think of it as a means of making new Constitutions. Am I right on that?

Mr. MERRIAM. I might have referred to the statute more than to the Constitution.

Mr. KERRICK (McLean). You referred solely to the matter of initiative acts for the legislature to do what it could under the provision of the I. and R. and with reference to regulating enactments attempted by the legislature, but as to whether or not in your own opinion it was wise and sound and safe to have the Constitution disposed of bit by bit or at one fell swoop by means of a vote, of a majority vote upon the question alone, that question we have not discussed, and I will ask you whether or not it is because you approve of the initiative and referendum in its operation as to legislation merely—what do you say with reference to the operation of the initiative and referendum with reference to its effect upon the Constitution? Do you undertake to say that it was wise in its effect upon the Constitution, the fundamental law as you would with reference to its wisdom in its effect on legislation alone?

Mr. MERRIAM. I thought I had discussed that matter somewhat with Mr. DeYoung. If I referred to statutes primarily it was not because I excluded the others, I would include the Constitution as well as statutory.

Mr. MILLER (Cook). You have stated you would apply the initiative also to the Constitution. What is your own idea as to how it should be applied to amendments to the Constitution?

Mr. MERRIAM. Indirectly in initiative.

Mr. MILLER (Cook). Will you explain a little bit more.

Mr. MERRIAM. Very largely the plan we had in 1913.

Mr. MILLER (Cook). That is the proposed amendment to the Constitution has to be submitted to the legislature and they are given the opportunity to pass substantially that question and submit it to the people in the ordinary way of submitting Constitutions, is that right?

Mr. MERRIAM. Yes, sir.

Mr. MILLER (Cook). In the event they did not act, then the people act on it any way?

Mr. MERRIAM. That would be my idea.

Mr. MILLER (Cook). Without any other petition or vote?

Mr. MERRIAM. There have been different methods proposed.

Mr. MILLER (Cook). What proportion of the legislature in that event is necessary to vote for it?

Mr. MERRIAM. I should say ten per cent petition.

Mr. MILLER (Cook). You mean of the people?

Mr. MERRIAM. Of the electors at the last general election.

Mr. MILLER (Cook). You mean all the people?

Mr. MERRIAM. All the electors at the last general election. The reason they put in a flat number of votes was because of the question that has arisen in some states, if you add five or eight per cent—they take a flat figure.

Mr. MILLER (Cook). You mean all men voters, or both?

Mr. MERRIAM. Five per cent—you can get in all sorts of troubles and many court decisions have been given divergent on that point. I will give you a case. The tax amendment voted on two years ago required a majority of the votes cast and we had to get a decision of the Supreme Court on that.

Mr. MILLER (Cook). Your suggestion would be that a ten per cent petition of all the voters whether they are men or women would be correct?

Mr. MERRIAM. Yes; I am not a stickler for the figures; no man can say whether it is six, eight, ten, or five, fifty thousand or one hundred thousand, except to the point of reasonable safeguards.

Mr. MILLER (Cook). You agree with Doctor Bigelow that while ten per cent would be high if only men were voting, it should be five per cent if women also voted?

Mr. MERRIAM. That would make a pretty heavy percentage if the women voted, but we would have that many more people to sign them also.

Mr. MILLER (Cook). It would not make any difference.

Mr. MERRIAM. No; your population might increase in the same manner.

Mr. MILLER (Cook). You would not require a smaller percentage in a state containing five million population than one having two and a half?

Mr. MERRIAM. No.

Mr. MILLER (Cook). Wouldn't you think it unfortunate for the Constitution to have constitutional amendments proposed and voted upon upon a petition of four per cent of the voters or less?

Mr. MERRIAM. I could not say, I have given you my idea. It is my personal preference there is a wiser and sounder method. I am saying that because my personal opinion is asked. I think your method would be better.

Mr. MILLER (Cook). And yet you think under the vote of the 11 per cent on these questions that the members of the Convention ought to submit to that proposition?

Mr. MERRIAM. You are mistaken about it. It is a great deal more than 11 per cent, more than three times.

Mr. MILLER (Cook). Yes; you are correct on that.

Mr. MAYER (Cook). Captain Merriam, I am troubled a great deal in trying to solve in my own mind the difference between constitutional amendments and statutory amendments and the methods to be applied. I have stated more than once I come here as a student to be educated. You have spoken of the Federation of Labor. What part of the population of Illinois in per cent compose the Federation of Labor?

Mr. MERRIAM. I could not give you the exact figures. If Mr. McDonald were here he could give you the exact figures.

Mr. MAYER (Cook). There are seven million people about in Illinois.

Mr. MERRIAM. I would say outside of the organized body they represent an unorganized body.

Mr. MAYER (Cook). The highest figure I have heard claimed throughout the United States is four million. That is the claim made by President Gompers. Suppose we assign to the State of Illinois 250,000, would that be an exaggerated statement?

Mr. MERRIAM. I should say that is not high enough. In any event they represent a large body of workers.

Mr. MAYER (Cook). But the great mass of the people of Illinois is unorganized, is it not?

Mr. MERRIAM. Yes.

Mr. MAYER (Cook). They have no federation and no associations and no organizations, that is correct, isn't it, the great middle classes?

Mr. MERRIAM. I think I have said myself that the great middle class was not effectively organized.

Mr. MAYER (Cook). The majority of the people has no representative body. I am speaking of Illinois, like the Federation of Labor, citizens organizations and associations of that kind, is that correct?

Mr. MERRIAM. The farmers have an organization, the Grange and various other types.

Mr. MAYER (Cook). Take the clerks, the bookkeepers and the hundreds and thousands of employes in the industrial and commercial and manufacturing enterprises.

Mr. MERRIAM. There are very many of them.

Mr. MAYER (Cook). Now, don't you feel that I, as a member of this Convention, owe a duty to the unorganized masses quite as strong as to the Federation of Labor?

Mr. MERRIAM. Without undertaking any mathematical comparison you represent all classes, I take it.

Mr. MAYER (Cook). And therefore in formulating a plan or proposition you would regard it as your duty if a member of this Convention that the plan should serve the interests so far as is possible?

Mr. MERRIAM. Of the community as a whole, yes.

Mr. MAYER (Cook). If, under the Initiative, as contemplated in proposal 133, 100,000 can initiate an amendment to the Constitution which is to be voted on after the expiration of sixty days at a general or regular or special election don't you feel that before giving such power that we ought to consider its effect upon this vast, unorganized class?

Mr. MERRIAM. Yes.

Mr. MAYER (Cook). That is what is troubling me, you help me solve it.

Mr. MERRIAM. I will help you.

Mr. MAYER (Cook). I am trying to get your help. Under 133 the right to amend the Constitution is not limited as to specific measures.

Mr. MERRIAM. I take it not.

Mr. MAYER (Cook). So that the Bolshevists, Syndicalists, Anarchists or any other "ists," if they got a measure with 100,000 signatures and petitioned the Secretary of State of Illinois to submit to a regular general or special election this proposition namely, that the Constitution of 1920 shall be and the same is hereby abolished, if such a petition were prepared and filed with the Secretary of State the people of Illinois would have to vote on it.

Mr. MERRIAM. Yes, they would, and they would, too.

Mr. MAYER (Cook). We are both agreed that the people would doubtless vote it down.

Mr. MERRIAM. Overwhelmingly.

Mr. MAYER (Cook). They could try it again thirty days thereafter and again ninety days thereafter. Is it desirable that the power to abolish the Constitution of Illinois or that the opportunity to submit it to a vote should be left as unrestrictive and as unlimited as Proposal 133 puts it, in your opinion?

Mr. MERRIAM. I have already stated that my personal preference is for the indirect initiative.

Mr. MAYER (Cook). You have said if you were sitting in this Convention you would vote for 133.

Mr. MERRIAM. Yes, to submit it.

Mr. MAYER (Cook). There are 102 members of this Convention. I have not the slightest idea what their final conclusion will be, and I will tell you I have not the slightest idea what my own will be, and therefore it is much more difficult to ascertain what the final conclusions will be of the 101 members, but I am confronted tonight with arguments made by Governor Dunne advocating and urging the adoption of 133, notwithstanding I called his attention, as did other members to several fundamental objections that we saw to it. Would you take the same position, would you vote for it?

Mr. MERRIAM. Governor Dunne is not unreasonable, he is willing to discuss the matter.

Mr. MAYER (Cook). Not as he discussed it today. Let me go further. You told us you were a member of the I. and R. League?

Mr. MERRIAM. Yes.

Mr. MAYER (Cook). Are you an officer?

Mr. MERRIAM. Yes.

Mr. MAYER (Cook). What office do you hold?

Mr. MERRIAM. I am one of the vice presidents.

Mr. MAYER (Cook). Who controls the affairs of that association, a board of directors or trustees?

Mr. MERRIAM. An executive committee.

Mr. MAYER (Cook). How many are on that committee.

Mr. MERRIAM. I could not tell you that, Mr. Mayer; if there is a certain vagueness about what I say I will clear it up. I was away in September, the period of their chief activity, there was illness in my family and I went away at that time.

Mr. MAYER (Cook). Have you attended any meetings since?

Mr. MERRIAM. Not since, no.

Mr. MAYER (Cook). So really you know nothing about 133 except as you have read it?

Mr. MERRIAM. I had no hand in the formulation of it.

Mr. MAYER (Cook). If I am not wrong in my recollection I asked Judge Dunne who drew it and I think he said an attorney named Case, do you know him?

Mr. MERRIAM. I know a Mr. Case, I do not know whether I know this particular one or not.

Mr. MAYER (Cook). Let us assume, and I concede that Mr. Case is a lawyer of capacity and let us say of eminence.

Mr. MERRIAM. Very well, let us agree to that.

Mr. MAYER (Cook). Now, he is the author of 133. We are 102 members of the Convention here to discharge an important and substantial duty, devoting as you observe hours and hours to public discussion and days and days to private discussion before our result is obtained. Are you surprised that we would prefer our own work to which we devote months and months to a single lawyer's draft of as controlling and fundamental a proposition of government as could possibly be submitted to the people?

Mr. MERRIAM. Not at all. Let me say, Mr. Mayer, so that there is no misunderstanding about that. You have here in this body legal brains and the ability to frame up the finest Constitution that ever was made, and no man in this State could frame a better one than Levy Mayer, if he would, and if you believed in it. I would not like to see you sit here in this hall if you were willing to go ahead with the propositions as the people wanted them.

Mr. MAYER (Cook). I never was more willing in my life to discharge a duty than I am now. You and I may differ when you say as the people want it, but it would be an honest difference.

Mr. MERRIAM. That may be, I do not deny it. I do not wish to deny it.

Mr. MAYER (Cook). I am one of one hundred and two delegates representing the people, not merely the Federation of Labor, but all the people, and all embraces the great masses that are not organized and who look to us to protect them. Would you feel surprised if as the result of our deliberations there eminated a different plan or proposition than 133?

Mr. MERRIAM. No, I have had a lot of experience in drafting different bills and propositions, and I know exactly how you feel about that, and I always assumed that no one man's draft would be taken. It will be worked through in the committee and discussed with great care and it will come back, if the committee favors it, and if this Convention wants to do it, it will be a good job.

Mr. MAYER (Cook). Of course the first thing the Convention must decide is whether initiative and referendum is a desirable article to draft into our Constitution.

Mr. MERRIAM. Yes.

Mr. MAYER (Cook). Then it is for them to decide whether that shall apply not only to statutory legislation but also to constitutional amendments.

Mr. MERRIAM. Number 2?

Mr. MAYER (Cook). Number 3—how shall it be accomplished?

Mr. MERRIAM. That is most difficult. Don't you feel the way to amend the Constitution should be separated, distinctly and substantially from the method of inaugurating by the Initiative or by referendum legislation? I would separate them. You agree with me the distinction between the Constitution and statutory law is broader. I could show you the statutes of various states and you would not know whether they were constitutions or statutes.

Mr. MAYER (Cook). Oklahoma contains 38,000 words.

Mr. MERRIAM. That is a mistake.

Mr. MAYER (Cook). As an illustration, when I called Judge Dunne's attention to the fact that 133 submitted to a vote of the people the right to vote upon an act of the legislature to deprive them of the right to vote upon a constitutional amendment he was astonished. Speaking of that as an illustration, not a criticism of Mr. Case, but of the necessity this Convention is under for hearing all sides to do its original work and get a conclusion that it thinks is the best. Don't you think that is the principle, that should actuate us?

Mr. MERRIAM. The latter part, what you think is best, you will do that anyway, I assume.

Mr. MAYER (Cook). We arrive at what is best by getting the best thoughts of gentlemen like yourself who can speak sincerely and helpfully.

Mr. MERRIAM. I would like to see the legal brains of Mr. Levy Mayer, the brains of Mr. Hamill and Mr. Green and others work on a reasonable type of Initiative and Referendum, you could work out a good one.

Mr. MAYER (Cook). That is what we are trying to do. Isn't it a mistake, not to be personal to yourself, to hear as we do hear at times that unless you do things in this way, why we are going to defeat the proposition that you submit to the people, that is publicly threatened and privately threatened?

Mr. MERRIAM. I assume you would like to know what I thought about it. Maybe a bit of truth, but my judgment is, it is not my opinion, the whole work of the Constitutional Convention will be wrecked. It ought not to be, it would be a mistake.

Mr. MAYER (Cook). Suppose that we were influenced by the element that desires that I. and R. in legislation, that if we did not incorporate so and so into the constitutional amendments then somebody arise, probably has already arisen insisting that in the revenue article of the Constitution we must or must not make a distinction or classification of taxable property and we would then hear a threat if you don't put this in we are going to defeat your Costitution. It has already come to me if we undertake to put into the Constitution that the trial by jury in civil cases shall require a majority of two-thirds vote that element will be created in this State.

Mr. MERRIAM. "Uneasy rests the head that wears the crown."

Mr. MAYER (Cook). Don't you think we are entitled to the strongest co-operation and assistance from individuals who are leaders of thought in trying to carry through our work, assuming we give it the best and most honest effort that our mentality is capable of?

Mr. MERRIAM. You are certainly entitled to the elements of the community in the endeavor to shape up the Constitution.

Mr. MAYER (Cook). Would you be willing to give me privately, or to the Convention, your views as to the I. and R., and other questions?

Mr. MERRIAM. I would be glad to do it, I have given many hours to the home rule.

Mr. MAYER (Cook). You cannot devote any more hours any more beneficially than if you will give me the benefit either privately or the Convention of your views, matured and deliberate as I know they will be.

Mr. MERRIAM. I will be glad to.

Mr. MAYER (Cook). Certainly 133 does not appeal in its present form to my legal mind because there are so many loop holes and objections to it. Give us something that is not open to so vital an objection. I am not going to agree we are going to enact them, but we will have a better postulate and better premise to start from. Is it your idea that the electorate should be permitted by the initiative to undertake to amend the Constitution in the same way without limitation as to time after there has been one effort that has been unsuccessful?

Mr. MERRIAM. Whether they should repeat it at once?

Mr. MAYER (Cook). Yes.

Mr. MERRIAM. I would like to give it thought. There is one plan prohibiting the same amendment being presented more than once in three years; I should like to take that under advisement.

Mr. MAYER (Cook). 133 contains no limitation, it can be taken up at any election, regular, general or special with the power of the Governor to call a special election, and you know what it would mean if the Governor did not call a special election with the initiative petition filed with the Secretary of State and the next general election fully a year and a half or two years thereafter.

Mr. MERRIAM. If Mr. Levy Mayer will say he is for the principle I will undertake to give any of my time that he wishes because I know he could draft it so it would stick.

Mr. MAYER (Cook). I am not binding myself in advance, but bring me a proposition which appeals to my neutral mentality. This does not appeal and for this I could not conscientiously vote.

Mr. SCANLAN (LaSalle). It is possible that all the signatures may come from one county?

Mr. MERRIAM. Under 133.

Mr. SCANLAN (LaSalle). What do you think of the signatures coming from half the counties in the State requiring a general interest?

Mr. MERRIAM. I do not think myself there is any harm in it. You mean to require something of a geographical vote in the signatures?

Mr. SCANLAN (LaSalle). Yes.

Mr. MERRIAM. You will find that in a number of the states. I think it is not a bad plan.

Mr. BARR (Will). Captain Merriam, do you think as to a question that might not seriously affect the people generally that an organized group might be able to pass legislation at almost any time by getting a majority of the votes cast on the question as against unorganized persons who might not be for it, is there not a danger in that situation?

Mr. MERRIAM. I should not think so, Mr. Barr. You can do it with the legislature or with any legislative body; a group of people keep pestering them until the legislative body will pass it more so than the electorate.

Mr. BARR (Will). Do you think the demand for an initiative and referendum is really an urgent demand among the people generally or is it because it has been agitated by a considerable number of leaders who are organizing campaigns along that line. I am asking for information?

Mr. MERRIAM. I think it is quite a genuine popular demand. I think, as Roosevelt said in his statement, the people expect the laws to be made by the regularly constituted law makers and they would like to have these other supplementary measures reasonably safeguarded and used on emergency on some peculiar question.

Mr. BARR (Will). Has the Initiative, Referendum and Gateway Amendment League a large membership?

Mr. MERRIAM. I do not know what the membership is, Mr. Barr.

Mr. BARR (Will). Are their meetings largely attended meetings where these questions are discussed or just a small group?

Mr. MERRIAM. I have not attended many.

Mr. BARR (Will). I understood you to say in your position before this Convention that you presented some views representing the League and other views representing yourself personally. Where did you get your views representing the League, is that some action taken by the League outlining its views?

Mr. MERRIAM. Yes, the League drafted those ballot propositions, and, as I understand it drafted this 133.

Mr. BARR (Will). What is your personal view on the question of the referendum; what do you think ought to be the number on a petition to hold up legislative enactment; do you agree personally now with the provisions of Proposal 133 as to the referendum?

Mr. MERRIAM. You are asking me personally on that?

Mr. BARR (Will). Personally, Captain; I would rather have your personal judgment than the judgment representing the League's position.

Mr. MERRIAM. You will find that on pages 156 and 157.

Mr. BARR (Will). Can you state it just briefly? I haven't read that.

Mr. MERRIAM. Five per cent of the electors is the number we have there, but as I said to Mr. Mayer, what sacredness is there in the per cent?

That is a matter to work out in detail. It is important, to be sure, but I mean it is not important beyond the question of what is a reasonable percentage.

Mr. BARR (Will). Do you believe that legislation generally ought to be subject to being held inactive until voted upon by a petition of say five per cent of the voters?

Mr. MERRIAM. We have certain exceptions. I don't think appropriation bills should be subject to referendum.

Mr. BARR (Will). Your exceptions are broader than those contained in 133, I take it?

Mr. MERRIAM. Yes.

Mr. BARR (Will). In other words, personally your views as to the initiative and referendum are quite different from those contained in the proposal that we have before us at this time?

Mr. MERRIAM. The general principle, Mr. Barr, I think is the same. The details are different. I don't think men of discriminating minds will make up their mind on the basis of five per cent or six per cent or seven per cent in intelligently voting upon the proposition.

Mr. BARR (Will). Your view is it should be an indirect initiative rather than a direct?

Mr. MERRIAM. That is my own personal view.

Mr. BARR (Will). You would not be in favor of a direct initiative?

Mr. MERRIAM. Indirect initiative I think would be better.

Mr. DUNLAP (Champaign). Mr. Chairman, there has been a good deal said about the use of the initiative and referendum so far as putting over a single tax is concerned.

Mr. MERRIAM. You spoke about it this morning, Senator.

Mr. DUNLAP (Champaign). Yes, and we asked some of those who have talked upon this question about their personal views. I would very much like to know whether you favor a single tax proposition as being the best way of raising revenue for the State?

Mr. MERRIAM. No, I am not a single taxer. Do you want me to outline a revenue scheme for you?

Mr. DUNLAP (Champaign). I would be very glad to hear it.

Mr. MERRIAM. That is rather a large undertaking. I don't think you want me to do that. From what I have learned, I supposed you had intended to remove certain restrictions and leave to the legislature the outlining of a scheme of taxation.

Mr. DUNLAP (Champaign). If this initiative and referendum were put through, it would be possible, would it not, for anyone to originate a scheme of single taxation as an amendment to the Constitution and offer that proposal if sufficient votes were secured for that? That seems to be the fear of some of the persons who are opposed to the initiative and referendum, and their votes at the election, I think, were against it because in some measure they were afraid of that proposition.

Mr. MERRIAM. Yes, I think there is some such fear as that. I think personally it is not well founded. In the first place, if they initiated such a measure, it would be overwhelmingly defeated, as it was in Missouri. I was looking in the Ohio Constitution. Yes, in section 1E, page 137 of the Ohio Constitution: "The powers defined herein as the initiative and referendum shall not be used to pass a law authorizing any classification of property for the purpose of levying different rates of taxation thereon or of authorizing the levy of any tax." They put that in.

Mr. BARR (Will). Would that be your personal preference?

Mr. MERRIAM. If there were any widespread objection to it, yes. They put it in in Ohio where Dr. Bigelow was presiding over the Convention, Senator. On page 137 you will find that. If that is the widespread fear, put it in.

Mr. BARR (Will). I spoke about that because of the fact that it seems as though a good many advocates of the initiative and referendum primarily spring from the people, or rather advocacy of this, and the propaganda comes from that element of those who favor the single tax.

Mr. MERRIAM. You are in a good position in your district to get in touch with sentiment. In the Ohio amendment you can find the specific exemption of it. They made such an objection apparently in Ohio that they removed it from the field of controversy.

Mr. COOLLEY (Vermilion). I wish first to assure you, Captain Merriam, that I have enjoyed your address as much as any I have ever heard in my life. I have not failed to observe your skill and I am inclined to take your statements at a hundred per cent. But to me this discussion seems to have brought out nothing but an indictment of our legislature.

Mr. MERRIAM. You mean the reasons——

Mr. COOLLEY (Vermilion). My point is this: Do you not believe that honest representation of the people would be more far reaching than the I. and R.; in other words, your general assemblies represent all of the people, if they represent anything; is that not true?

Mr. MERRIAM. Well, sometimes they represent other things.

Mr. COOLLEY (Vermilion). I say if they are honest.

Mr. MERRIAM. They should. You might, however, have a legislature that is entirely honest and absolutely sincere that does not represent all the people.

Mr. COOLLEY (Vermilion). By way of explanation, I will state I have never been a member of the General Assembly.

Mr. MERRIAM. Some of the most honest and upright men I know have been members of the General Assembly for years.

Mr. COOLLEY (Vermilion). Certainly. But assume——

Mr. MERRIAM. I will say if a man in this legislative body is honest, he is very honest.

Mr. COOLLEY (Vermilion). That was my question. If the General Assembly were honest, would it not represent all the people, better than the initiative?

Mr. MERRIAM. Yes, and in general I would say that the majority of the laws have been made in that way. They are made that way now in the states that have the initiative and referendum, and they will continue to be so made, I have no doubt. You mean if there had not been a jack pot there would not be so much talk about the initiative and referendum.

Mr. COOLLEY (Vermilion). Isn't that the reason for this distrust in representatives?

Mr. MERRIAM. Not distrust of the real representation, but distrust of misrepresentation.

Mr. COOLLEY (Vermilion). It is the same thing.

Mr. MERRIAM. No, real representation is not the same thing as misrepresentation, if I understand your question, Doctor.

Mr. COOLLEY (Vermilion). I tried to make it as plain as I could.

Mr. MERRIAM. Perhaps I didn't get the drift of it.

Mr. COOLLEY (Vermilion). The people represented in an ordinary initiative or referendum is about what per cent? What per cent usually vote?

Mr. MERRIAM. That depends; they run up to sixty, seventy, or eighty per cent. You mean of the total vote at the election?

Mr. COOLLEY (Vermilion). Yes.

Mr. MERRIAM. You have the figures here. That is on page 101 and following, I think it is.

Mr. COOLLEY (Vermilion). Is it not a fact that initiative questions are usually prompted by some selfish motive?

Mr. MERRIAM. No, I should say quite the contrary.

Mr. COOLLEY (Vermilion). You don't believe that the same effort or half the effort with a legislature would bring better results than by the initiative?

Mr. MERRIAM. It might bring some results; that is true, if you had a legislative body all made up of angels.

Mr. COOLLEY (Vermilion). Oh, no, I prefer to have some faith in mankind yet a while. I cannot conceive why all legislators should be dis-

honest and all men who would take an active interest in special matters at special elections would be absolutely honest.

Mr. MERRIAM. They would not be all absolutely honest. You mean an electorate?

Mr. COOLLEY (Vermilion). I think you and I agree absolutely upon this. Our duty is to the people of the State of Illinois, and we are really very sincere in trying to serve, not any special interest, but all of the people. Do you not believe that our duty to the man who will not vote is binding as well as to the man who is interested in the election?

Mr. MERRIAM. I think your duty would be primarily to the people who voted. If a man won't vote when the opportunity is given to him, I don't think he is the prime factor to consider.

Mr. COOLLEY (Vermilion). Which takes us back to the first question. Will not fair representation or good representation better serve the purposes of all the people than the initiative and referendum?

Mr. MERRIAM. I would not say so, Doctor, as conditions are.

Mr. COOLLEY (Vermilion). Not forgetting that men will not vote.

Mr. MERRIAM. Don't misunderstand me, please, as to the legislature. Some of the most honest, competent and hard working men I know are in legislative bodies.

Mr. COOLLEY (Vermilion). We are trying to get at the best way to serve all the people.

Mr. CRUDEN (Cook). May I ask you some of the specific things which we are suffering from in Illinois at the present time because of the lack of the initiative and referendum?

Mr. MERRIAM. You mean to ask for an outline of the legislative program, Mr. Cruden?

Mr. CRUDEN (Cook). Yes, or a constitutional program.

Mr. MERRIAM. The initiative and referendum is not designed to work out a program for a special group or measure; it is a process by means of which measures can be initiated and can be voted upon.

Mr. CRUDEN (Cook). I simply ask you that question in order that I may find out what may be some of the first propositions that we would be asked to vote upon if the initiative and referendum were adopted.

Mr. MERRIAM. I could not say that.

Mr. CRUDEN (Cook). It may be possible to have the remedy through the legislature?

Mr. MERRIAM. My idea is, if the matter came to the legislature, and they would remedy it without any further difficulty, the whole problem would be solved, but they might make such modifications that the original petitioners would say, "That will be better than ours," or "It may not be better than ours, but after all we will accept it." In that case it becomes the right of petition, but it is more than the historic right of petition, because it has a follow up to it.

Mr. DUPUY (Cook). Mr. Chairman, I move that the committee do now rise and report progress.

CHAIRMAN DOVE. Before the committee rises, let me suggest that there are two most estimable ladies here at the invitation of the committee who have waited here all day to get the privilege of speaking to you for a few moments.

A few months ago a very considerable group of people met in St. Louis and organized the Committee of Forty-eight. The secretary of that committee with headquarters in Chicago is here. She is here at the invitation of the Initiative and Referendum Committee, and we welcome her here to this discussion. Miss Alexander. (Applause.)

Miss ALEXANDER. Mr. Chairman, Members of the Committee and members of the Constitutional Convention of Illinois:

May I say as coming here as Secretary of the Committee of Forty-eight, I also come from a state where, since 1906 we have lived under the initiative and referendum, and that the substantial advances made in that state have been chiefly due to those two instruments.

In 1912 as an initiative measure a primary law in the State of Montana was enacted. In 1914 as an initiative measure, woman's suffrage was enacted. Subsequently state prohibition has passed the electorate of the State of Montana.

We have the distinction of having elected the only woman who has held a seat in the United States Congress, and newspaper reports to the contrary an analysis of Congresswoman Rankin's record will show that it not only compares very favorable with the record made by other representatives in Congress, but for the most part is very, very superior to the records made by her colleagues and those who have preceded her.

Now, the initiative and referendum is not a sentimental proposition, and I do not believe these men and women who have come here and spoke to you today so regard these instruments. The argument has been advanced against every measure that tended toward political or social or economic advancement, that our forefathers, who are reposing in their two-by-six feet of sod are reaching out their arms to us imploring us to thwart progress, because in their days conditions were entirely different and consequently the psychology of the time produces very different results.

In this morning's Herald and Examiner there is a statement by President Wilson which Governor Dunne has already read you, but which with your permission I should like to read again. "The initiative and referendum here being proposed now is a means of bringing our representatives back to the consciousness that what they are bound to do is represent the sovereign whom they profess to serve, and not the private interests which creep in by way of machine orders and committee conferences. We are contrasting the initiative and referendum, not with the representative government we have in theory but with the actual state of affairs."

In Woodrow Wilson's "The New Freedom," Mr. Wilson says: "The old political formulas do not fit the present problems; they read now like documents taken out of a forgotten age. We are facing the necessity of fitting a new social organization, as we did once fit the old organization, to the happiness and prosperity of the great body of citizens; for we are conscious that the new order of society has not been made to fit and provide the convenience or prosperity of the average man. The life of the nation has grown infinitely varied. It does not centre now upon questions of governmental structure or of the distribution of governmental powers. It centres upon questions of the very structure and operation of society itself, of which government is only the instrument." Mr. Wilson continues: "A new economic society has sprung up, and we must effect a new set of adjustments. We must not pit power against weakness. The employer is not generally, in our day, an individual, but a powerful group; and yet the workingman when dealing with his employer is still, under our existing law, an individual." "So what we have to discuss is, not wrongs which individual intentionally do—I do not believe there are a great many of those—but wrongs of a system. The truth is, we are all caught in a great economic system, which is heartless. The originative part of America, the part of America that makes new enterprises, the part into which the ambitious and gifted workingman makes his way up, the class that saves, that plans, that organizes, that presently spreads it enterprises until they have a national scope and character—that middle class is being more and more squeezed out by the processes which we have been taught to call processes of prosperity. No country can afford to have its prosperity originated by a small controlling class. The treasury of America does not lie in the brains of the small body of men now in control of the great enterprises that have been concentrated under the direction of a very small number of persons. The treasury of America lies in those ambitions, those energies, that cannot be restricted to a special favored class. There has come over the land that un-American set of conditions which enables a small number of men who control the government to get favors from the government; by those favors to exclude their fellows from equal business opportunity; by those favors to extend a network of control that will presently dominate every industry in the country, and so make men

forget the ancient time when America lay in every hamlet, when America was to be seen in every fair valley, when America displayed her great forces on the broad prairies, ran her fine fires of enterprise up over the mountain sides and down into the bowels of the earth, and eager men were everywhere captains of industry, not employees."

The government of the United States is at present the foster child of special interests. It is not allowed to have a will of its own. It is told at every move "Don't do that, you will interfere with our prosperity." The government of the United States in recent years has not been administered by the common people of the United States. And then Mr. Wilson continues:

"I suspect that the people of the United States understand their own interests better than any group of men in the confines of the country understand them. The men who are sweating blood to get their foothold in the world of endeavor, understand the condition of business in the United States very much better than the men who have arrived at the top. They know how far they will have to search for credit with the men who have already built up industry in this country; they know somewhere by somebody the development of industry is being controlled."

On the floor of the United States Congress by some of the most reactionary men we have there, the admission has been made frequently and repeatedly that we find ourselves today on the brink of a grave political and industrial cataclysm. The two dominant parties, the two old parties have not stepped forward with a constructive program of any kind to meet the economic and social problems that are confronting the great American people. The industrial and economic conditions which are germane to this Nation as a whole affect the State of Illinois. No constructive program has been offered. State legislatures have met. My own state for example, called a special session of its state legislature, ostensibly for the purpose of giving aid to the drought stricken farmers in my state, and that special session of the legislature adjourned having endorsed a resolution and memorial to congress advocating the recognition of the Irish Republic, and passing under an emergency plea a primary law to set aside the initiative primary law passed in 1912, and it has subsequently been declared unconstitutional by the state Supreme Court. That is the service our special legislature rendered the drought stricken farmers in Montana.

You men who have been elevated to the Springfield legislature, you come down here and you know a hand full of men control both Houses. I have heard the statement made that with these various channels of intelligence directed toward the common good, out of it would come instruments of infinitely greater value than those initiated and submitted to the people. Out in my own state was passed in the state legislature a law protecting certain birds. There was a gentleman in the legislature by the name of Stork, a man having a dry sense of humor, and he got up the day that bill was pending for final action and suggested that they insert in the enumeration of birds to be protected the word "stork." It went over the heads of that entire assembly and today on the statute books there is a solemn statute protecting the assassination of storks in the state of Montana. (Laughter.)

We do not have to go to a state legislature to find intelligence. The people who assemble in the state legislature, if your representative system works at all would come as representatives of the various groups of industry, commerce, agriculture and so forth, that your State affords. The protection of American institutions rests with the great American people. The greatest conspiracies that have ever been put under have been engineered by minority groups. If I understand it correctly the conspiracy to crucify Jesus Christ was put under way, not by the people but by the representatives of the people. Then assembled together—who—the high priests and the scribes who then entered the palace of the high priest and consulted that they might take Jesus by subtlety, but they said "Not on a fast day lest there be an uprising among the people." That stands out as an historical event, the sad, sad evidences of which all of us lament. The fear there is not the action on the part of the people en masse. The oppo-

sition of the initiative and referendum cannot get upon this platform and cite any appreciable number of instances where the people, given a fair access to the facts have voted wrong on a proposition. Unfortunately, under present conditions the chief sources of intelligence in this country are controlled by newspapers owned for the most part by representatives of big business. In Montana there is not one free daily paper except a small one in the city of Butte owned and sustained by organized labor. In spite of the fact we have the initiative and referendum I make no contention that the initiative and referendum will prove a panacea for all our ills in our economic and industrial system. Not by any means. The statement has been made here in substance that it did away with lobbying. In the state legislature of my own state the Anaconda Mining Company continues to maintain its lobby, but we have a system of checks and spurs that in spite of the Anaconda Mining Company and in spite of their lobbies and in spite of the venerable gentlemen they have seated in the various sessions of our state legislature the people have been successful in passing legislation which the people as a whole deemed to be desirable, and in preventing legislation being passed which was deemed to be undesirable.

The idea of the initiative and referendum is not a new one. Back in 1764 when Samuel Adams had occasion to address the citizens of Boston who had elected their first group of representatives to the Massachusetts Colonial Legislature, Mr. Adams in substance said:

"Gentlemen, the fact you are being chosen to represent them in the General Assembly the ensuing year affords you the strongest testimony of the confidence which they place in your integrity and character by those who have delegated to you the power of acting in their public concerns in general as your own intelligence and conscience shall direct, always reserving unto themselves the constitutional right of expressing their minds and giving you further instructions upon particular matters as they at any time shall judge proper."

Doctor Coolley asked if the initiative and referendum were an indictment of state legislatures. Mr. Merriam seemed reticent about replying. My candid judgment is, it is an indictment and a justifiable indictment, if you please. I think when two political parties have functioned in this country as long as the Republican and Democratic parties have and we find, according to the most authoritative information at hand, that two per cent of our people control sixty per cent of the wealth of this country; that sixty-five per cent of the people own five per cent of the wealth of this country, that the middle class now composes only a part of an aggregation equalling 33 per cent of our people, with a control over 35 per cent of the wealth, and when the statement is made by the Industrial Relations Commission that the condition of the industrial workers of the United States, practically two-thirds are living in a condition which can be described only as abject poverty, I tell you, ladies and gentlemen, that if we have had representative government in the past, it has not been representing the interests of the great American people.

During the Christmas holidays in the City of Chicago daily there were items in the papers as to the number of men, women and children who would go hungry on Christmas day if the Good Fellows and the Red Cross and the various charitable organizations did not come to their aid. I speak for myself when I say I shall be glad the day we may cut the word "charity" out of our English vocabulary. What the people need is a square deal, and it is perfectly obvious they are not getting it under the present arrangement.

According to this report tenant farming in the United States between 1890 and 1910 increased 32 per cent. The situation is becoming such that it does the electorate of the State very little good to vote for candidates. We have exploded the theory of electing the best man to the office; we have tried to elect the best man to office only to see him turn a somesault in mid air and come up opposing us. Broken platform pledges, abandoned the moment they were in office. You must be un-American if you oppose the war profiteer; you must be un-American if you insist that the United States

Steel Corporation should not have made 550 millions in excess profits. The Anaconda Mining Company in my state made 49 millions in excess profits. There has been no concerted effort to bring to these questions such an assemblage as we have here and determine upon the merits of the case. Not at all. The discussion is, will we permit, shall we permit the people to exercise that right which through the lack of foresight on the part of some of our forefathers was taken away from us. In spite of that, Delaware, as I understand it, stands as the only state today that can ratify its State Constitution without a referendum vote of the electorate thereof. As has been stated here frequently today, and I do not need to repeat it, 22 states in this Union have gone on record as favorable to the initiative and referendum in some form or another. The proposition of the initiative and referendum is precisely as you find in your office; if you have a superintendent to whom you can assign certain duties, and he attends to those duties in the manner you desire and you deem proper, you are perfectly willing to shift that responsibility to his shoulders, but the moment he is putting something across, that he is not functioning in your interest, you either assume those duties yourself or you find somebody else to assume them for you. It seems to me, if I sense this Constitutional Convention correctly, that the argument is with regard to methods rather than whether or not you found a common denominator. You have not agreed, so far as I am able to judge from the questions put, on whether you are favorable to or adverse to all the doctrine of the initiative and referendum. It would seem to me, at least, and I say this in all humility, that the first thing before this Constitutional Convention would be to ascertain whether or not you are interested in the initiative and referendum as a principle, first of all, and secondly, whether you wish to adopt the method which has been submitted to you which has been passed upon by the electorate of the State of Illinois. A number of gentlemen have risen to their feet to ask the distinguished speakers who have preceded me as to their duty, whether they believed it was their duty to vote for the initiative and referendum, because it carried in the State of Illinois, or whether or not they believed that it was their duty to support the vote of their congressional district. Now, it would seem to me that is a question which could have but one answer; you are endeavoring to deliberate upon an instrument which will serve the whole State of Illinois. It seems to me just as ludicrous to assume that you ought to be bound by the vote of your congressional district, if it is opposed to it, in a State where the measure has carried, as to insist because Montana and California supported Woodrow Wilson on a Peace Platform and elected him in 1916, that they should refuse to accept the mandate of the United States Congress when they declared war against Germany. It seems to me it is just as ludicrous a situation. In legislating here, in conducting these deliberations, you are not only determining what will meet the present needs of the electorate of the State of Illinois, but you shall doubtless be binding the coming generations who will find the shackles which may be thrown around them in their day just as difficult to overcome as the present Constitution of Illinois.

It seems to me with the marshalling of intelligence which you obviously have in this Constitutional Convention, that that in itself, the very fact that the electorate of the State of Illinois have selected men who are acknowledged to be the leading intellectual lights of the State of Illinois, the fact they have reposed that confidence in you and have used such excellent discrimination in selecting you, that you can well afford to express to the people of the State of Illinois the gratitude which you must feel, express to them the appreciation that they had delegated to you that supreme function of determining not only the law under which they shall continue to exist, but also the law which shall determine, largely, the destinies of their children and their children's children.

The hour is extremely late and I do not want to take up any more of your time. I am sorry to have had to speak to you now, but I knew that to wait over until tomorrow would have gained neither of us anything. I would like to have gone much more fully into the merits of the Initiative and Refer-

endum, but it seems to me there has been sufficient argument marshalled today to at least serve you until you have a joint discussion of the proposition subsequently.

May I express to you my appreciation at having been allowed to address this assembly? (Applause.)

CHAIRMAN DOVE. I next introduce to you Mrs. Helene Danek, Secretary of the Initiative, Referendum and Gateway League of Chicago, Illinois.

Mrs. DANEK. Mr. Chairman and Delegates to the Constitutional Convention:

I think your Chairman has called on me last simply to prove the old contention that the woman must have the last word.

It is a privilege to present to you the earnest desire of the women of our good State that you incorporate the Initiative and Referendum into the new Constitution. It is close to the hearts of so many of our women, we have an abiding faith that you gentlemen are going to grant us that great boon and we are anxiously awaiting your decision, and from the splendid personnel of this Convention we are confident we will get that which we ask.

In incorporating the Initiative and Referendum into the Constitution you are providing the people and posterity with the best known means of beating machine politics and again demonstrating the truth of the saying that "The voice of the people is the voice of God."

In using the word provide, I am reminded of a story which I will tell you if you gentlemen will stand for a little bit of levity at this late hour. A colored woman was asked as to whether or not her husband was a good provider, and she answered, "Yas, ma'am, deed he is; he is goin' to work next week purvided he gits a job, and he is goin' to git me a bran new go-to-meetin' dress purvided he gets de money, and he is goin' to send me back home to see my folks purvided somebody gives him a railroad pass; yes ma'am, he shore am de most purvidingest man you ever see." (Laughter.)

All we ask gentlemen, is that you provide the people of this great commonwealth with the means of protecting themselves by giving them these two great measures.

I want to congratulate you on your marvelous patience and thank you for the privilege of appearing here before you, and I wish you all a very fine night's rest. (Applause.)

Mr. MILLS (Macon). I move a vote of thanks be extended to Governor Dunne and the other speakers who have discussed these proposals today.

(Carried.)

Mr. TRAUTMANN (St. Clair). I move that this committee do now rise and report progress to this Convention.

Mr. DOVE (Shelby). Mr. President, the Committee having under discussion Proposals 133 and 134 reports progress and ask leave to sit again.

(Granted.)

Mr. GREEN (Champaign). I move this Convention adjourn.

(Motion prevailed.)

Whereupon, an adjournment was taken by the Convention to Wednesday, February 18th, A. D., 1920, at 10 o'clock, a. m.

WEDNESDAY, FEBRUARY 18, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, Father Gilmartin.

THE PRESIDENT. The Journal of February 12th, 1920, having been printed and placed on the desks of the members on Tuesday morning, February 18, 1920, is now subject to correction. There being no corrections proposed the Journal of February 12, 1920, will stand approved as printed and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, and introduction of proposals.

THE PRESIDENT. On the subject of introduction of proposals the President will call the attention of the delegates to the fact that under the rules next week will be the last week when proposals may be introduced. I would urge upon the delegates to get their proposals all in by next week in order that the committees may take up the serious work of the Convention and may formulate their reports. It is necessary that these proposals all be in by next week as they cannot be introduced from the floor after next week.

Whereupon the Convention proceeded upon the further order of first reading of proposals, second reading of proposals, motions and resolutions, unfinished business, and general orders of the day, all without debate.

Mr. GREEN (Champaign). A suggestion has been made that next Tuesday is an important election day in the City of Chicago, and to the end that the delegates to this Convention from Cook County ought not to be deprived of any right of suffrage which they might want to exercise in the participation of that election, I move therefore when we adjourn this week, that an adjournment be taken until next Wednesday morning.

(Motion prevailed.)

THE PRESIDENT. Last week a resolution was adopted fixing upon the day for hearing in the Commitee of the Whole upon the various propositions introduced relative to the Judiciary Department. The time has now arrived when the Convention will resolve itself in a Committee of the Whole for that purpose. As Chairman of the Committee of the Whole the President will designate Mr. DeYoung, chairman of the committee on judicial department. Mr. DeYoung will please take the chair.

Whereupon the Convention resolved itself into a Committee of the Whole.

CHAIRMAN DEYOUNG. The Committee will please come to order and we will resume the further consideration of the proposals touching the judicial system. Last week we had under consideration Proposal Number 56, but the discussion will not be limited to that proposal alone. I have been informed that Mr. Edward C. Craig of Mattoon, one of the leaders of the Illinois Bar, is present, and the committee I am certain will be pleased to hear from him. I introduce Mr. Edward C. Craig.

Mr. CRAIG. Mr. Chairman, and members of the Convention: As announced by the Chairman I am a lawyer; I am a country lawyer. I live in Mattoon, Coles County, Illinois. I do not know whether I can make any suggestions to this Convention along the lines proposed. This Convention is made up of men very able to give these questions complete and proper consideration, but I want to make a few suggestions in reference to the question of the change, if any, in the Constitution relative to the judiciary.

I may be called an old fogey, a standpatter, a reactionary, but I believe, gentlemen of this Convention, that of all the time in the history of the State of Illinois when we ought to have an anchor to windward it is now. As Solomon said, "Remove not the ancient land mark which the fathers have set." There is one place to which everybody ought to have a right to go to have all of his questions settled, and that is our courts. We have gone along for years in the State of Illinois with the judicial system practically as it is now, and I for one, as far as the country is concerned, I would like to see this Convention leave that judicial system practically as it is. You gentlemen have been elected by the people of this State to change, if necessary, to correct where necessary, the present Constitution, but in my judgment that does not give you and you do not consider it does a carte blanche to change everything. The things that are right ought to be left alone.

In this day and age everybody wants to change things. Bobby Burns said, "Nature's very law is change." I say we have got to go back at this time to some of the things that our forefathers believed in and to the kind of democracy they had faith in. There will be some things that ought to be changed, but the judicial system of this State has served its purpose, has given the people the kind of courts that they want, the kind of courts that they could get justice in, and I think that very few changes should be made and the system ought to be left as it is.

It is proposed, I am told by several proposals to do away with all courts except the Supreme and the Circuit courts to enlarge the number of the Supreme court and enlarge the powers of the Circuit court and give the Circuit court jurisdiction of all kinds and over every thing in the county in which it sits. Over in our sister state of Indiana they have a system of that kind. They have a circuit court in each county that has jurisdiction in all kinds of action, that appoints the conservators and executors and settles estates and does everything of that kind, and it has a sort of administrative feature as well as judicial feature. Compare the courts of Illinois with Indiana and ask any lawyer who has gone to Indiana to try cases, how their courts compare with our courts. I remember well when I was in college the eminent Professor Gray in telling the class about the different rules that had been adopted by the various states on a certain proposition of law said: "It has been held so and so by the learned Supreme Court of Massachusetts, and held so and so by the ignorant court of Indiana." I do not believe we want to adopt any system in this State that will affect the importance and dignity of the circuit courts of the State. The circuit courts in this State have enough mixture of dignity and democracy to satisfy everybody. No one fears to enter the portals of that court, but everybody has the right kind of fear of its majestic hand. If, gentlemen, you give to the circuit court the power to settle estates and appoint administrators and executors and do things of that kind, you are going to lower the dignity of that court, you are going to take from it some of the things it has that you can never give back. What is the matter with the county court? Not a thing. We ought to preserve in my judgment, gentlemen, please, the Supreme Court the way it is. Elect the Appellate Court judges, but preserve the circuit court as it is. If you want to do away with the probate court it looks to me it ought to be done. There is no use having a County Court and a Probate Court both. Have a court that has jurisdiction of probate matters and matters incident thereto, and then do away with the justices of the peace. When I started to practice law the squire was a big fellow in the country, but the justices in the country now are a thing of the past. People have automobiles, they have good roads and they want to go to town, and if you have to have a small court for small cases, have a municipal court, call it what you will. You can give the people in the small towns a chance to litigate, if they will, with expedition.

I have no panacea for the ills that exist today, no new proposals, but I am simply pleading for the old landmarks. These courts that have maintained the preservation of the rights of property, the preservation of

the liberty of the people of the State of Illinois, and were good enough for our forefathers ought to be good enough for us.

The courts in this State have been practically as they are now with a few minor changes for a great many years, and during that time they have produced a Lincoln, a Douglas, a Sidney Breese, a Schofield, and other eminent jurists. It may be asked what has the production of good lawyers and good judges to do with the courts. A strong court makes a strong bar. You can compare the Supreme Court of this State, our Appellate courts and our circuit courts with any corresponding court in any state in this land. That is all I have to say, gentlemen. That is the way a great many of us in the country feel. I trust and hope that when this Convention has deliberated that it will not do much to the judicial system.

There is one thing more, I was about to overlook it, and that is the fee system. It ought to be done away with in the smaller courts, we ought not to have any fee system. The thing to do in this Constitution is to adopt merely the fundamentals and leave the legislation to the legislature so that when you have adopted a Constitution that it will be a lasting and living and growing thing. That will do away with the necessity of having another Constitutional Convention for years to come, and will leave to the sound and good judgment of legislatures from time to time to change, alter and modify the things that are necessary. While it is not exactly pertinent to the matter under discussion, I trust and hope that this Convention will not in this Constitution try to affect in any way the practice of the courts. The question of evidence and things of that kind ought to be left to the legislature for their determination.

I thank you, gentlemen, sincerely for listening to me. (Applause.)

Mr. CORLETT (Will). Did I understand you to say that you would elect the Appellate Court?

Mr. CRAIG. Yes.

Mr. CORLETT (Will). I had always thought that the Supreme Court had a better means of judging of the qualifications of those men as judges than any one else, and I would like to ask what advantage you would expect by electing the Appellate Court judges over the present system of selecting them from Circuit Judges already elected?

Mr. CRAIG. In the first place—and while this is not exactly an answer to your question, I am a firm believer in the electing of officers. The answer direct to your question is that now the circuit judges who are appointed by the Supreme Court have their duties as circuit judges to perform and in many instances are embarrassed by having the very cases decided by themselves in the nisi prius court to be determined by the court in which they sit as a member of the Apellate Court.

Mr. CORLETT (Will). Is there any other reason?

Mr. CRAIG. No; there is not. It occurs to me that if the people can select suitable circuit judges they can select suitable appellate judges.

Mr. CORLETT (Will). Wouldn't you expect to improve the appellate bench by electing them in the Appellate Court districts?

Mr. CRAIG. I believe it would be an improvement.

Mr. CORLETT (Will). How many circuits are included in the Appellate Court districts?

Mr. CRAIG. That varies. I do not remember the statute, but the State as you know is divided into different districts which embraces different counties enumerated in the statutes creating districts.

Mr. CORLETT (Will). In my circuit they have probably less than 40,000 voters. I had always supposed that the voters of that judicial circuit could pass upon the candidates for judges better than they could if they were voting upon a judge for the whole appellate district. That is, they know them better; they know their qualifications better than they would if the district was enlarged and I had always supposed that the present system of empowering the Supreme Court because they would know about the circuit court judges' abilities more than anyone else would likely know, as they are reviewing their work all the time could select from men elected in

those smaller districts a bench that would compare favorably with any bench that would be elected.

Mr. CRAIG. The judges of the Supreme Court are elected by a vote of the people in very large districts, and we have been fortunate in the State of Illinois in having a very eminent Spreme Court, and if the people can select good judges for the Supreme Courte, then they should be able to select good judges for the Appellate Court.

Mr. CORLETT (Will). I am not arguing that with you at all. You raise the question of the Appellate Court judge being embarrassed by having a case brought to his court which he tried in the lower court. That could very easily be remedied by having it sent to another Appellate Court with an act of the legislature or even by this Convention, couldn't it?

Mr. CRAIG. I presume so; yes, sir.

Mr. CORLETT (Will). Now, is there any other objection that you have to the present system of selecting the present Appellate Court judges?

Mr. CRAIG. No, sir; none that I now think of at this time.

Mr. TRAUTMANN (St. Clair). Mr. Craig, you and I are similarly situated. Disregard that we both live in a city that has a city court and that is the one you mentioned. What do you think of changing the Constitution and providing that the circuit court shall be held in the county seat at the court house and abolishing city courts and allowing the circuit judges to hold court in cities in their counties of a certain population, say ten or fifteen thousand or more?

Mr. CRAIG. I see absolutely no objection to that. I will be very much in favor of this Constitution abolishing city courts.

Mr. NICHOLS (Ogle). Did I understand you to say you favor the abolishing of the justices of the peace court?

Mr. CRAIG. Yes; as it stands now.

Mr. NICHOLS (Ogle). Would that impair our township organizations?

Mr. CRAIG. No; many townships in my part of the State at the present time have no justices of the peace in the country districts, they get along without them. The auditing committee does not have to consist of offices which embrace the justices of the peace. It is all statutory, as Mr. DeYoung suggests. That would be regulated in any manner that the Constitutional Convention determines or leave it to the legislature as it is now.

Mr. BARR (Will). We have a city somewhat like yours where we have no city court but justices of the peace in our country towns outside of Joliet. With the possible exception of one or two there is practically no business done; in fact I don't know whether we have a justice of the peace who really holds office or not. I never knew of their trying law suits at any rate, but in the city we have five justices of the peace there and they do a large amount of petty business, and fortunately I rather think our justices of the peace system has been reasonably free from severe criticism. Your suggestion that we do away with the city court and do away with the justices of the peace, I wondered what would be the method in your judgment, I am asking purely for information, as to the method of handling that great mass of small litigation where only one or two hundred dollars is involved that does grow up in cities of that size and smaller, four thousand, five or six thousand population?

Mr. CRAIG. There ought to be a court to do that, and I suggested that there should be a so-called police court or municipal court, or a court of that kind that is provided for the taking care of business of that kind, and limit them to some town, village or city and not have any of them out in country and do away with the fee system.

Mr. BARR (Will). There is a large amount of criminal business in our city, assaults and battery, disorderly conduct and that sort of thing; in fact we have one or two justices of the peace that do a very large business, and there is a demand, honest demand for that kind of court, and as I said a few minutes ago there has grown up with us serious criticism, especially with the idea of the fee system, and if there was not some court that would be pretty close to the people to take care of those things, it seems to me that there would be very serious loss.

Mr. CRAIG. I agree with you absolutely, Mr. Barr, and I think it is very essential that that be done, I have no criticism of the justice system as administered in our part of the State, but I do not see the necessity of having justices of the peace in the country any more, and I do think the fee system should be abolished, and I think the absolute enforcement of prohibition will do away with a great many assaults and battery.

Mr. BARR (Will). With reference to the Appellate Court, wouldn't you be inclined to think that the election of judges of the circuit court, that they can be selected by the Supreme Court and then transferred to the Appellate Court and then discontinue as an active circuit judge, you might perhaps relieve that situation?

Mr. CRAIG. Yes, I think that would bring about the result I have in mind. I have no fixed ideas that I think are a panacea to settle those matters, I have general ideas about those matters.

Mr. BARR (Will). As a rule in our Appellate Courts I think they are pretty busy and the judge who tries to do circuit work and the Appellate Court work, he must work his associates pretty hard or himself pretty hard.

Mr. CRAIG. That is true.

Mr. BARR (Will). In our particular circuit we have a member of the Appellate Court and I think he not only works too hard, but also the rest of the judges work too hard.

Mr. CRAIG. You would have to provide for the election of additional circuit judges.

Mr. BARR (Will). Yes.

Mr. CRAIG. If that could be done it would meet with my ideas about the matter.

Mr. BARR (Will). Just one more question: Mr. Craig, isn't it your observation that the class of judge who is suitable to do the work of the probate judge in a county such as your and ours is not the kind of a judge, as a rule, who would be valuable as a circuit judge?

Mr. CRAIG. I think so.

Mr. BARR (Will). Do you or do you not find in your county a considerable amount of work that is done by the county judge in the way of special assessments and tax matters?

Mr. CRAIG. Yes, a great deal of it.

Mr. BARR (Will). And dependent children, insane cases, matters of that kind that really take a considerable part of the time of the county judge, it keeps him pretty busy?

Mr. CRAIG. Yes, that in my judgment would not mix with his duties as a circuit judge because some of those things would have to be attended to immediately, and if the circuit judge was trying a case of a great deal of importance that would take probably a week or two to try and an insanity case comes in, what would he do?

Mr. BARR (Will). Don't you think this is a fact, that the boy or girl who is under guardianship and the administrator who is out in the country feels as though he likes to have the probate judge or judge of the probate court so that he can come in to him from time to time and get some suggestions and information and talk about his report and things of that sort that are almost essential to the satisfaction, at least, of the people of the community?

Mr. CRAIG. I think you are correct about that.

Mr. BARR (Will). We find that it requires a little different kind of judge in both the county and probate work than what would be satisfactory in the circuit court.

Mr. CRAIG. Your ideas are in accord with mine, only you express them better.

Mr. BARR (Will). Thank you.

Mr. HAMILL (Cook). We have had many suggestions relating to the power of the Supreme Court to make rules, extending, as I understand the proposition to cover practically all the practice and procedure now regulated by the legislature.

Mr. CRAIG. A practice act.

Mr. HAMILL (Cook). I would be glad to have your views on that.

Mr. CRAIG. I do not believe that that ought to be left to the Supreme Court. It is well that the court has power to adopt the rules, but it looks to me like that is a legislative matter and should be controlled by the legislature. Of course, you will think I am an old fogey, but I believe in a great many of the things that have been, and I think we should stay with them. I really believe that those things can be worked out better in the way they have been, and in addition to that, almost every question of evidence has been decided in this State; almost every question of practice has been decided, and the decisions have been codified in the Fortieth Illinois, and why, when they are all settled and any lawyer that has any industry at all can know what they are should we change them and bring chaos and confusion and have to go over the question of settling those things again?

Mr. MILLER (Cook). We of Cook County, of course, are anxious to learn what you down the State want in regard to your courts just as you gentlemen from down the State are anxious to learn what we want. You have mentioned certain things you think ought to be changed. As to your suggestion of electing Appellate Court judges; I judge you do not think that is particularly important, if some provision is made?

Mr. CRAIG. To bring about the result I have in mind?

Mr. MILLER (Cook). Yes. In addition, wouldn't you say that perhaps the present system in that regard is often better, perhaps the Supreme Court can judge better of the qualifications of the judges of the Appellate Court work after he has been on the bench for a time?

Mr. CRAIG. That may be, but if I had my own way I would elect them, but I believe the other would obtain the same results. Personally I would be in favor of electing the Appellate Court judges, but that is only a personal feeling about it.

Mr. MILLER (Cook). Let me get your ideas about the justices of the peace. You said you would do away with the country justices.

Mr. CRAIG. I meant by that outside of a municipality.

Mr. MILLER (Cook). Will you please be a little more specific about that.

Mr. CRAIG. I mean in the rural townships.

Mr. MILLER. Outside of towns of what size?

Mr. CRAIG. I do not think it makes a bit of difference what the size of the town is if it is not an organized municipality.

Mr. MILLER (Cook). You believe that the fee system should be done away with because that furnishes an inducement to the justice of the peace not to be always honest, is that correct?

Mr. CRAIG. I should not say that, but I do not believe in the fee system. I believe it brings about a better chance for equal justice in addition to the other reasons I have.

Mr. MILLER (Cook). That is about the sum and substance of it, that where there is a fee system the justice of the peace is at times tempted not to do his full duty in an official way?

Mr. CRAIG. I put it in a milder way than you.

Mr. MILLER (Cook). We mean about the same thing?

Mr. CRAIG. Yes.

Mr. MILLER (Cook). You would provide justices of the peace with a salary for the smaller cities?

Mr. CRAIG. My idea would be to do away with this justices of the peace and to have a municipal court, a court in cities and towns—I mean by that organized towns—don't elect so many as you elect justices of the peace, but have one court and grade it to the size of the community, and if necessary elect other judges and pay them a salary.

Mr. MILLER (Cook). And perhaps let them travel around and hold courts in the smaller towns?

Mr. CRAIG. I do not think that would be necessary if we get good roads as we should, and automobiles, people will go 25 miles to a big town for any purpose.

Mr. MILLER (Cook). So your idea would be to have these salaried municipal judges take care of all this small work?

Mr. CRAIG. That is my idea, Mr. Miller.

Mr. MILLER (Cook). The city courts you stated that those be abolished?

Mr. CRAIG. Yes, I see no occasion for them.

Mr. MILLER (Cook). What would be your suggestion as to the limit of jurisdiction of such municipal courts as you suggest?

Mr. CRAIG. $500, something of that kind.

Mr. MILLER (Cook). With a jury?

Mr. CRAIG. Yes.

Mr. MILLER (Cook). Twelve or six?

Mr. CRAIG. Six I think would be enough.

Mr. MILLER (Cook). What is your idea about county and probate judges?

Mr. CRAIG. I think one judge would be sufficient in the court and if the size of the county is sufficient to have more judges they could be arranged in that one court.

Mr. MILLER (Cook). In other words, you see no necessity for having two courts in those counties where they now have a probate court and county court?

Mr. CRAIG. That is my idea exactly.

Mr. MILLER (Cook). Now, take it in smaller counties where they have a county court without a probate court: Could this class of work, what would you think of the idea of having this class of work that is now done, the administrative work done by a county court or probate court done by an appointive officer appointed by the court who could do such work as master in chancery work also?

Mr. CRAIG. I do not believe in that, Mr. Miller, for this reason: On contested matters the circuit judge would have to hear them and as has been well suggested by Mr. Barr, I believe that a county judge is in a way, to use the Latin phrase, "in loco parentis" in the place of the father and mother, appointing administrators, executors for wayward children and possibly being there all the time, can bring about a great deal of good that could not be accomplished by the circuit court and it might be said that this clerk or master in chancery could do that, but I do not believe that the people as a whole would look up with that reverence and with that respect to an arm of the court as to the court itself. I believe that the courts are the only tangible evidence of the law that the people see, and if there is that dignity in the court and that preservation of dignity it helps to enforce the law.

Mr. MILLER (Cook). What would you think of adding to the Supreme Court of two more judges from Cook county?

Mr. CRAIG. I do not see the necessity of doing it, but I would not see any objection to it; I think the seven judges now are able to take care of the business, and I honestly and earnestly believe that there will not be in the future as much litigation and as many litigated cases as there have been in the past.

Mr. MILLER (Cook). Why do you believe that?

Mr. CRAIG. Oh, for many reasons; the fact that our State has grown richer will have that effect. I remember when I first began practicing law that we had, in our little county, circuit court that met twice a year for eight or ten or twelve weeks of litigated cases and a great many of them went to the Supreme Court and Appellate Court and now we do not have but about two weeks of court. In those days people litigated freely because there was not as much involved, and a man could afford to have a litigation and lose it, when there was only one or two hundred dollars involved, but when he has fifteen or twenty-five thousand dollars involved he can afford to take something less in a compromise.

Mr. MILLER (Cook). In other words, the richer he gets the less he can afford to have litigation?

Mr. CRAIG. I believe it, sincerely.

Mr. MILLER (Cook). I think you are right about that.

Mr. CRAIG. A law office has got to be a business office more than a professional office. The lawyer today is a business man nearer than he is a professional man.

Mr. MILLER (Cook). A great many practicing lawyers are advising their clients to keep out of court.

Mr. CRAIG. Yes, and a great many lawyers are employed in advance by their clients to keep them out of court.

Mr. MILLER (Cook). Of course you realize this, that over half of the litigation in the Supreme Court originates in Cook county, and it seems advisable to have a Cook county view on that bench, you realize that?

Mr. CRAIG. I do not see, as I said before, any objection to the increase of the bench to nine members and add two from Cook county. I think those are matters we could all agree on.

Mr. MILLER (Cook). On the other hand there is a view expressed by some members of the Supreme Court that if the number were increased there would be a less chance of giving full consideration by each member of the court. Have you any view on that?

Mr. CRAIG. I should think the judges of the Supreme Court bench would be better judges of that matter than any of us who have never been on the bench. So far as I am personally concerned I would like to see the number of seven retained.

Mr. MILLER (Cook). There have been two or three proposals there are already one or two in now that have proposed that the judges of the Supreme Court fix the appellate jurisdiction as between that court and the Appellate Court, instead of allowing the legislature to fix that. Have you given that matter any thought?

Mr. CRAIG. No, sir; but off hand I would be in favor of the legislature doing it.

Mr. MILLER (Cook). On the other hand the view expressed in this: The Supreme Court at the present time has a very large number of cases, more than it really ought to have, so many cases in fact that if as the judges there say, each case were argued orally, there would be no time to write opinions, they would be hearing oral arguments, and the tendency of the legislature is from time to time to add jurisdiction, that is, to create a new class of cases going from the trial court to the Supreme Court, as for example the legislature not long ago made all appeals from Workmen's Compensation cases go directly to the Supreme Court, and those are very largely matters entirely questions of fact; such laws as that by the legislature have continued to pile the work on the Supreme Court and not leave that court in the position, as it seems to me they ought to be of deciding general principles. Have you taken that into consideration?

Mr. CRAIG. I have, as I said, given it no consideration, but were I a member of this Convention I would consider it with the belief that the legislature in this Constitutional Convention should control that matter rather than the Supreme Court.

Mr. MILLER (Cook). Let me call your attention to this, Mr. Craig, in the United States Supreme Court, you will recall, makes all practice rules in bankruptcy, in admiralty and in equity, and it works out pretty well; for instance, in bankruptcy particularly they have changed the rules rather frequently because they found the rules already enacted were not the best; don't you think that has operated better than it would if they were to go to the courts to change the rule of practice from time to time?

Mr. CRAIG. Here in Illinois we have been getting along pretty well on the question of practice and these matters have all been settled and I am in favor of abiding by them since they have been settled.

Mr. MILLER (Cook). Some of the proposals provide that the rules of practice remain the same until the Supreme Court sees fit to modify them; it seems to me that the Supreme Court should be the judge, would be a better judge of the practice act where it needs modification than the legislature. If the legislature should appoint a commission of lawyers to spend a whole lot of time on it, they would come out about the same place, but in

a new provision when lawyers take snap judgment on it they do not agree, and the legislature says we will pass anything the lawyers agree on.

Mr. CRAIG. Those things have been worked out from every conceivable point of view and it is not often there is any necessity for any additional change.

Mr. MILLER (Cook). You are aware that several states have in recent years given the Supreme Court rule making powers?

Mr. CRAIG. Yes.

Mr. MILLER (Cook). And there has been no complaint so far as I have been able to hear that they did not work out all right. You have no other matters in mind that you think of?

Mr. CRAIG. No; I have not, Mr. Miller.

Mr. MILLER (Cook). Thank you.

Mr. CUTTING (Cook). Your criticism of the Indiana system, you of course were aware that there the circuit judges go about the circuit very much as our circuit judges do at the present time?

Mr. CRAIG. Yes.

Mr. CUTTING (Cook). And the probate and the other work is done largely by the clerk of the court over there?

Mr. CRAIG. Yes.

Mr. CUTTING (Cook). No such scheme has been proposed here. Are you familiar with the California sytem?

Mr. CRAIG. No; I am not, judge.

Mr. CUTTING (Cook). In it there is a judge with complete jurisdiction in every county and he is always there. I have received letters advocating the one court system on the theory there would be no question of jurisdiction, the judge would be present, and in those counties where the business was not sufficient to provide for the appointment of surrogate, we will say, with the judge always there, and the judge ready to attend to any business, circuit court business or anything else; that is the system in California, and as nearly as I can find out works admirably. Far be ir from me to suggest to the people down the State what they should have. If they want the old system then I am quite content that they should keep the old system. In Cook County the sentiment is in favor of a unification of all courts. The advantage of that is very great with us it seems to me in the matter of efficiency which would result, but in the country counties the proposition was as I understood it that there should be one judge in every county with complete jurisdiction, and one court. If the business required more judges they could be added, and if it were necessary to appoint a surrogate as you now appoint a master in chancery, he would be given the power to do the routine work which is connected with the probate business. It is perhaps not proper for me to suggest, but there is a line of business connected with the administration of estates which is quite, I think, as important as that connected with any other business in the State of Illinois, and as you have well suggested the litigated business is decreasing but the administrative business with the wealth of the State has vastly increased. Therefore, the character of the court which is to dispose of that I think cannot be too great. The suggestion that the judge of the probate court has to get down and talk across the table may prevail in certain parts of the State, but it does not with us. The administration of estates is carried on in open court with the same dignity as any other proceeding in court is carried on. What would you think of that as modifying your opinion of the Indiana system?

Mr. CRAIG. It does not modify it at all when applied to our conditions down the State. I would not want anything I have said here to control or to effect your conditions in Cook County.

Mr. CUTTING (Cook). I did not so understand you. I am not attempting to control down the State either.

Mr. CRAIG. Your conditions are entirely different from ours, and I am not familiar with them, judge, but I do say our present system of circuit courts and county courts down the State are absolutely satisfactory and bringing splendid results.

Mr. CUTTING. I have two or three letters from prominent lawyers where no circuit court judges live who are strenuously and selfishly perhaps, advocating the one court system, that there should be always a circuit court judge available in the county for the business of that county. Whether that is necessary or desirable, I do not know.

Mr. CRAIG. It does not make any difference with us that we do not always have a judge in our county, especially now since we have the better roads, trolley system, telephones and means of communication that we did not have a great many years ago.

Mr. CUTTING (Cook). The Indiana and Iowa system of administration of estates by circuit courts is entirely different from that of the California system to which I referred, inasmuch as the clerk is not clothed with anything, even quasi-judicial powers in that state, and there is a judge in every county and in some counties more than one for the performance of that duty. I have heard no criticism from anybody there.

Mr. CRAIG. If we lived in California we might hear criticism. We often cuss the courts when we are defeated.

Mr. CUTTING (Cook). Yes, I have often myself indulged in that pastime. We in Illinois frequently hear criticisms, probably groundless some of them; if there is anything that is rampant in the country it is criticism of the delays, procrastination and the inability of the courts to function speedily and well. I do not join in that criticism myself, but we hear it on every hand and every newspaper is filled with it.

Mr. CRAIG. There is not much in the country, Judge.

Mr. CUTTING (Cook). That may be true, but I hear it very frequently and there is some ground for it, not anything like as much as we ordinarily see in the newspapers, where of course the editor not being a lawyer knows all about the law.

Mr. CRAIG. Which we lawyers don't.

Mr. CUTTING (Cook). No, of course not, we are not presumed to. I think that is all I care to ask. Thank you for your answers.

Mr. JOHNSON (Bureau). I understand that you stand substantially for six courts down the State, Supreme Court, Appellate Court, circuit court, probate court, county court and municipal court?

Mr. CRAIG. No, I do not stand for a county court and a probate court both.

Mr. JOHNSON (Bureau). I understand that you stand substiantially for six courts down State?

Mr. CRAIG. For what?

Mr. JOHNSON (Bureau). Six courts—a Supreme Court, Appellate Court, circuit court, probate court, county court and the municipal court.

Mr. CRAIG. No, I do not stand for a county court and a probate court both.

Mr. JOHNSON (Bureau). Then you have five. Now, what are your specific objections to the justice court?

Mr. CRAIG. I don't think they are necessary, to begin with.

Mr. JOHNSON (Bureau). You know they are one of the landmarks of our forefathers?

Mr. CRAIG. Yes.

Mr. JOHNSON (Bureau). What are your objections?

Mr. CRAIG. But we today have done away with the necessity of having in the rural districts a local court. I remember, Mr. Johnson, that when I first began practicing law I used to get on a horse, ride through the mud and go out and try cases before a country justice of the peace. The suit was brought before the justice of the peace in the neighborhood. Today nothing of that kind is ever heard of. The country justice of the peace in my part of the State does not function any more. There is no such thing as a justice court outside of the cities and towns and incorporated villages.

Mr. JOHNSON (Bureau). That being true, you are in a position then to advise this Convention about the great rural districts of Illinois on that subject, because that is not true in other localities in Illinois. You had the

privilege of riding a horse in those early days; I walked.

Mr. CRAIG. I did too at times, Judge.

Mr. JOHNSON (Bureau). Now, I understand you to say that as a substitute for this justice court you would have a municipal court, or something of that kind, which would do the same work and function just the same as the justice court, I expect, with reference to jurisdiction, amounts, and so forth; is that right?

Mr. CRAIG. Practically. I would have it something like $500.

Mr. JOHNSON (Bureau). Now, a county of twenty-five or thirty thousand people, and suppose cities ranging from eight to ten thousand people; you would have a court in every center?

Mr. CRAIG. I would have one wherever there was a necessity for it.

Mr. JOHNSON (Bureau). How would you pay them if you did away with the fee system?

Mr. CRAIG. I would pay them salaries; let the municipality pay them the salary.

Mr. JOHNSON (Bureau). The municipality?

Mr. CRAIG. Either that or the State. I have no fixed ideas about that. I have simply ideas in a general way, and have only expressed ideas in a general way.

Mr. JOHNSON (Bureau). Isn't there quite a general complaint now that the expenses incident to the maintenance and running of the courts is just about as great as the people can bear?

Mr. CRAIG. I haven't heard that.

Mr. JOHNSON (Bureau). Of course these city courts that you are talking about—do you know any of them in your locality or within your own range that are functioning only for the purpose of the fee, $2,000 per year?

Mr. CRAIG. I don't understand the question.

Mr. JOHNSON (Bureau). I mean the municipal courts.

Mr. CRAIG. The city courts?

Mr. JOHNSON (Bureau). Municipal courts; well, city courts.

Mr. CRAIG. And what is the question about city courts?

Mr. JOHNSON (Bureau). Are you acquainted with any of them in your locality who are really functioning only for the purpose of the salary of $2,000 a year?

Mr. CRAIG. Yes, sir; I know of one.

Mr. JOHNSON (Bureau). Do you know of any where the judges are spending the most of their time in some other county in the State, and at fifteen or twenty dollars per day?

Mr. CRAIG. No, sir, I don't.

Mr. JOHNSON (Bureau). Not where we are.

Mr. CRAIG. Why do you want to expose my ignorance of your community, Judge?

Mr. JOHNSON (Bureau). I don't, but, Mr. Craig, you are seeking here to give us who live in the north regions some light on the judiciary question. I am trying to find out as to what you will give the people in the rural districts as a substitute for the justice court, and you tell me it shall be a municipal court, and you change the name only; that is the only difference, and the way of getting compensation.

Mr. CRAIG. That is correct.

Mr. JOHNSON (Bureau). That is right, isn't it?

Mr. CRAIG. Yes, sir.

Mr. JOHNSON (Bureau). Well, we are standing by the landmarks, then, as to the necessity of a justice court, in every locality, but we are changing its name?

Mr. CRAIG. No, my idea, Judge, is that since in a great many of the rural townships of my part of the State they don't even elect justices of the peace, that the necessity of them has been done away with.

Mr. JOHNSON (Bureau). Well, up our way they are thought of as the poor man's court and a refuge for the rich man.

Mr. CRAIG. Well, they are thought of in that way in our part of the State, but it is only the justices of the peace who live in the cities who have any business.

Mr. JOHNSON (Bureau). Now, of course we all as lawyers—I am not a judge; I wish you wouldn't call me that—— (Laughter.)

Mr. CRAIG. I won't; pardon me.

Mr. JOHNSON (Bureau). As lawyers, we know that the justice courts in the several localities have served a great purpose in many ways.

Mr. CRAIG. That is very true.

Mr. JOHNSON (Bureau). And the reason why they now have passed beyond the age of usefulness, in your judgment, is because of the automobile, or the Tin Lizzie, and the good roads system?

Mr. CRAIG. Now, my judgment about that matter is predicated entirely upon the fact that in the rural districts they don't even elect them; and why should you provide them officers that the people don't take advantage of and elect?

Mr. JOHNSON (Bureau). Oh, that isn't true generally in Illinois. You are living in an exceptional community I think.

Mr. CRAIG. I am glad you agree with me about it.

Mr. JOHNSON. (Bureau). You are in southern Illinois. Now, the speed with which the man who wants relief by reason of the good roads and the automobile can find it at the center, don't you keep in mind the fact that the man who wants to flee from justice can take advantage of the good roads precisely as the man who wants relief?

Mr. CRAIG. Oh, yes.

Mr. JOHNSON (Bureau). Now I am talking about a real question with reference to these little courts. Here is a man who thinks he would like to beat his neighbor out of his just debt, and his neighbor understands that now there is a justice of the peace who has the jurisdiction to issue a writ—we call it an attachment writ—to stop him. He has already loaded the goods, they are on a truck; he takes advantage of your good roads system and he beats his creditor in that regard.

Mr. CRAIG. What I think could not do away with the good roads, Mr. Johnson.

Mr. JOHNSON (Bureau). I could not do away with the good roads, but I would not abolish the system which has stood as a landmark, the landmark of our forefathers, and Solomon, perhaps; I would not abolish that system unless I were to put something in its place that would give the same relief that that institution has given. Now, as a delegate of this convention, I am with you in many things.

Mr. CRAIG. I am delighted with that.

Mr. JOHNSON (Bureau). What say?

Mr. CRAIG. I am delighted you would go as far as I do, and further, in standing by the landmarks.

Mr. JOHNSON (Bureau). But we are wanting a little more light upon that question. I don't believe the people of Illinois are now ready to elect twenty-five or thirty or forty municipal court judges in their respective counties at a salary of five hundred or a thousand dollars a year. They won't stand for it, in my judgment. They say they have courts enough as it is. They say it is too slow now to get to the end of the road; they become weary and die upon the highway. Now, the Appellate Court—I understand you to say that you would make that an independent court and elect the judges.

Mr. CRAIG. Yes, sir.

Mr. JOHNSON (Bureau). I would too; we are of the same mind on that proposition. Have you any way by which you could bring about a uniformity of the decisions of the local counties in those Appellate Courts, independent courts?

Mr. CRAIG. No, sir; I haven't gone into that.

Mr. JOHNSON (Cook). Isn't that intensely important?

Mr. CRAIG. It is very important.

Mr. JOHNSON (Bureau). It every now and then happens that one division of our present Appellate Court will decide a certain legal proposition

that is up this way, and tomorrow morning, in twenty-four hours perhaps, another division upon the identical question will decide it the other way, and we are all at sea. How much of the litigation, the cases that go up from our lower courts to the Appellate Court, would you make final?

Mr. CRAIG. Well, it seems to me that the statute now is pretty well drafted.

Mr. JOHNSON (Bureau). Do you think it is too hard now to get into the Supreme Court?

Mr. CRAIG. Well, that rule of making it hard has been adopted by the court, and that is not a matter of legislation. It is controlled by the court to a considerable extent.

Mr. JOHNSON (Bureau). But the members of this body, I suspect, are not quite willing to turn the whole thing over to the General Assembly.

Mr. CRAIG. I hope they will not.

Mr. JOHNSON (Bureau). What say?

Mr. CRAIG. I hope they will not.

Mr. JOHNSON (Bureau). Or we might not have a view of one of the old landmarks. I don't know about that. I am not one of those—and I want every delegate in this Convention to understand—that I am not one of those that would lay ruthless hands upon an intstitution that has shown itself to be the benefactor of humanity and against which there is no serious objection; I stand pat by that institution, but it does occur to me that there is a great field for improvement. We are talking about down State matters, and at present we are not living in Chicago—you and I, I mean. We are talking about the down State matters relative to the courts. I thank you.

Mr. CUTTING (Cook). Mr. Chairman, I rise for a single remark. In answer to the question of the delegate who has just taken his seat, that it is true that city judges are using their talents for a per diem in outside counties, it is not confined to city judges. Dignified circuit judges are constantly doing the same thing in a somewhat insignificant county in the northeast part of the State all of the time.

Mr. GREEN (Champaign). With your permission, I will say that I am under great obligations to you for coming here. I would like to have at this time a general survey of your ideas in reference to this judicial matter. The alarm was sounded or indicated the other day that there might be some disposition to improve the records of the circuit court, which I am very glad to have you explain. Mr. Craig, as I understand your position, the Supreme Court, of seven or nine judges as might be determined in the wisdom of compromise and conflicting opinions, in your judgment should be elected?

Mr. CRAIG. By districts.

Mr. GREEN (Champaign). The Appellate Court should have no nisi prius labor in connection with its jurisdiction, or its work?

Mr. CRAIG. Absolutely not.

Mr. GREEN (Champaign). It should be purely a court of review?

Mr. CRAIG. That is my idea.

Mr. GREEN (Champaign). Have you a preference independent of your own personal opinion, have you any judgment as to the evil or good effect of whether it should be appointed or elected, the Appellate Court?

Mr. CRAIG. If the appellate judges were appointed from the number of circuit judges, you would have to elect more circuit judges. I don't know how you would work that out. It would be pretty hard to do, and the Constitution would have to provide for some extra circuit judges. The Constitution would have to provide where those circuit judges would come from. I cannot look into the matter and see how you are going to manage that unless you elect the appellate judges.

Mr. GREEN (Champaign). I see. Now, would there be any objection if the Constitution made provision for such elasticity as that subject matter being left somewhat to the discretion of the legislature, or the suggestion of the Supreme Court?

Mr. CRAIG. I don't see any objection to that.

Mr. GREEN (Champaign). So that that might be taken care of in that way?

Mr. CRAIG. Yes, sir.

Mr. GREEN (Champaign). But that there should be an elective officer, whether elected as a circuit judge or as an appellate judge, accords with your opinion.

Mr. CRAIG. I believe in that.

Mr. GREEN (Champaign). As I understand, you are very intense in your belief that the circuit court should be kept aloof from the administrative functions of probate matters?

Mr. CRAIG. Of all the things I have spoken of, I believe in that the most firmly.

Mr. GREEN (Champaign). Do you believe, Mr. Craig, that this is as a fundamental proposition of orderly and developing government, a necessary principle to be incorporated in the framework of this Constitution?

Mr. CRAIG. I do, Mr. Green.

Mr. GREEN (Champaign). And that the administrative work be done by judges of the county provided for in the Constitution separate from the circuit court?

Mr. CRAIG. I do.

Mr. GREEN (Champaign). Then that the matters of smaller jurisdiction, smaller consequence, be taken care of by some form of municipal or police magistrate courts, corresponding to the present justices of the peace, and provided in sufficient number to accommodate the business?

Mr. CRAIG. You have stated my views splendidly.

Mr. GREEN (Champaign). In connection with the suggestions of the delegate from Bureau (Johnson) with reference to a large number of cities in his particular county, would you think it entirely safe and practical to leave the matter of the number and the salary and the other matters in connection with those courts with the legislative tribunal, either of the county or of the state, either by the board of supervisors or by the legislature?

Mr. CRAIG. That would be my idea, Mr. Green.

Mr. GREEN (Champaign). So that they could make it elastic enough in laying out the plan that the various demands of the communities could be served by their own legislative tribunal?

Mr. CRAIG. That would be my idea.

Mr. GREEN (Champaign). There is one question on which you may or may not wish to express an opinion, but I am sure I would like to have this Convention have the benefit of your idea, and that is this: The question of the jurisdiction of testamentary trusts in probate courts. The suggestion has been argued, or discussed rather, here, as to extending the jurisdiction of our probate courts to include proceedings in partition or of other anciliary matters for final distribution in a probate court.

Mr. CRAIG. I don't believe I would be in favor of that, Mr. Green.

Mr. GREEN (Champaign). If you are willing to enlarge upon why, I would be glad to have you do so.

Mr. CRAIG. Beg pardon?

Mr. GREEN (Champaign). If you would be willing to state your reasons, I would be very glad to have you do so.

Mr. CRAIG. To begin with, the circuit court, to me, is a court which ought to be entrusted with those matters. If the county court is to be done away with, and the probate court will take the place of the county court and the probate court, that court will have plenty to do without enlarging very much its jurisdiction and powers, and it seems to me that there are so many questions of varying forms of such intricacy that arise in consequence of testamentary trusts and partitions and settling of titles and things of that kind that it ought to be left where it is.

Mr. GREEN (Champaign). The suggestion in that respect has been urged that even now in petitions to sell real estate and pay debts it may acquire titles; having in mind all these things, Mr. Craig, I would like to know your judgment as to whether the importance of these matters in the

administration of testamentary trusts, conducting partition suits where titles are involved, even if transferred to the circuit court, the matter of the sale of real estate to pay debts; whether or not you think that the gravity of importance in that character of litigation would fully justify the additional burden or expense, if you please, of having the two jurisdictions handle the two matters in connection with the settlement of estates?

Mr. CRAIG. It seems to me it ought to be left the way it is now.

Mr. KERRICK (McLean). Not so many years ago, a gentleman with whom I was very well acquainted residing in a different part of the State——

Mr. CRAIG. Will you speak just a little louder?

Mr. KERRICK (McLean). Not so very many years ago a former schoolmate of mine had the good fortune to be elected one of the justices of the Supreme Court of this State. Soon after his incumbency as one of those justices, in the assignment of cases to him, he had one in which reference had been made to the docket of the justice of the peace, which, as is usually the case, was rather informally kept. Alluding to that in his opinion which he was reading to his associates, he used language something like this: Our experience in practicing before justices of the peace is such, and we think this, that and the other, about the lack of specific skill in the matter of preparing a record. The other judges hemmed and hawed a little, as I was told, and said, brother so and so, your opinion is very excellent, but as to that reference to practice in justice of the peace courts, it would be well to consider the dignity of the court; it would be better not to refer to our practice in the justice of the peace courts, to leave that out. He replied, "I don't know how it has been with you fellows, but for the most part, that is where the principal part of my practice has been." I can't exactly admit that myself, but a very considerable part for a number of years was in justice of the peace courts.

In arriving at the operation of our present system of justice of the peace courts, my observation has been this: That it is a court for which there is a place and a place which I don't think can be better supplied, outside of Cook County, than by our present system.

It has been suggested that there should be fewer justices of the peace and that they should be resident in the larger villages and towns of the counties. It has been stated, and it is a fact, that in many rural townships in which there is a sparse population and there is no village of any consequence that justices of the peace are either not elected or, if elected, do not serve, all of which is true. After all then, isn't that a natural selection which is better than any artificial selection we could devise by constitutional provision or legislative enactment? For instance, in my county, McLean, which is the largest county territorially in the State, the county seat is a considerable city. Within McLean county are perhaps as many as six very important towns, both as to their population and their general characteristics. The larger towns are distributed, as is usually the case, with reference to the entire territory of the county, so as to be convenient of access to the entire population of the county, one or the other of those towns. There are two or three townships in McLean county in which there is no town or village, or at least nothing that is of any consequence. The people either do not elect a justice of the peace in those last named townships, or, if they do elect him, he does not serve, and why? Because actual experience has demonstrated that there is no need for such an officer in that community, because he lives within a short distance easily accessible to other towns, and in every one of those larger towns naturally without any legislation or any assistance they provide themselves with the need for a justice of the peace, and usually a more capable one perhaps than some who are elected in the larger cities. Little or nothing is lost in the expense by this natural selection. A ticket has one more name on it perhaps in the township where it has subsequently had no need for a justice of the peace. That is the end. Justices of the peace have, and should

have, jurisdiction throughout the entire county. In our county justices of the peace are elected and serve just where, and nowhere else, than they are needed, without any interference of the legislature or any other creative body having the ability to create and direct proceedings. In Bloomington, however, we only elect five justices of the peace. I believe that is the limit now. Out of those five, three do substantially all of the business. There is just a liberal overflow of business of a minor character for the other two.

There is usually inducement enough for some man who hasn't anything else to do to accept the election as a justice of the peace. In Bloomington we might in an emergency, when one of the others happened to be busy or absent, want one of them to issue a writ or something of that kind; so that so far as my experience in justice of the peace courts is concerned, so far as my observations have been in my own county, and it is not confined to my own county, and I am strongly inclined to believe that it is the rule throughout all of Illinois outside of the great metropolis of Chicago, where I readily see that some other and more workable system is desired and should be established, as to all of Illinois outside of Cook county, I don't believe anything we can do, or I doubt if anything any legislature can do, can add one iota to the efficiency and the usefulness of the justice of the peace courts as they now exist.

The thing works itself out.

Now, with reference to fee systems. I know in Cook county they need a better system. The situation requires a better system. The situation is one which could never work out is own salvation, but I don't believe there is any need of change in the justice of the peace system outside of Cook county. I don't think, except with rare occasions, that any harm comes so far as our justices of the peace courts are concerned from the fee system. There may be a little overcharging now and then, but as a rule that is very soon corrected. Litigants and atorneys are watching that and there is not much harm done along that line, not nearly so much as would be done in the sheriff's office under the old fee system.

I remember a good many years ago when under that system a young man was elected sheriff, and made an excellent sheriff, but he didn't know abut the matters in regard to fees, but he assembled, soon after he took his office, his deputies, and they were anxious to know what to do about fees, how much to charge in this case and how much to charge in that. He had not read up closely enough so that he could answer all of those questions, and he got worried, and finally he threw up his hands. That, of course, had to be rectified.

That is all I care to say, more than I have said, on the subject of the justice of the peace; and I stand strong for the justice of the peace system down the State.

Now, with reference to the comparative merits of the one judge system or the one court system, and the other matters spoken of.

I am familiar from having lived in the State of Indiana and having been born in the state with the workings of the system in Indiana. They are pretty well satisfied with it. I have never heard any complaint of the system by the residents of Indiana. That does not, however, prove conclusively that the system could not be improved. I am not sure as to whether their system produced as good judges. I have been personally acquainted with some very excellent judges in the State of Indiana.

In our own State, thinking of our own county, I have often thought that there was no very great necessity for a county judge, strictly a judge. The probate business in our county is large enough to be somewhat a reflection of the counties in general. The probate business is done very largely—I will say that 90 per cent of the business of the probate court in the matter of time required to perform it, is done by clerks who have no judicial power, but, for instance, they look over the report that is handed them. The clerks look over that. They can compare that, and they will know whether or not that report ought to be approved. They cannot approve it, but the judge may be absent two weeks at a time occasionally.

We have a judge who goes to Chicago to help out, for instance. There will be a large amount of business done by that clerk that only needs the signature and the judicial approval, which becomes a matter, of course, for the county judge. The probate business can be conducted almost exclusively by a man who has not the largest, widest experience in the handling of judicial matters.

CHAIRMAN DEYOUNG. May the Chair call the attention of the delegates to the fact that we have invited speakers present.

Mr. KERRICK (McLean). Well, I beg your pardon.

CHAIRMAN DEYOUNG. Who have to address us and after that to answer questions. The speaker is anxious to get away, and if I may call the attention of the delegate to any questions which he desires to ask they may be put and answered.

Mr. KERRICK (McLean). I was not aware that we were holding up any one who had been invited. I didn't understand. I wish I might have been informed sooner.

Mr. CRAIG. I have enjoyed very much being here, gentlemen.

Mr. KERRICK (McLean). I didn't understand that there were other invited speakers here.

Mr. CRAIG. I have deemed it a great privilege to be here, gentlemen, and I thank you very much for your kind attention. (Applause).

Mr. LINDLY (BOND). I move that this committee now recess until two o'clock this afternoon.

Motion prevailed, and a recess was taken until two o'clock p. m., of the same day.

2:00 o'CLOCK P. M.

The Committee of the Whole reconvened, pursuant to recess.

Chairman DeYoung, presiding.

CHAIRMAN DEYOUNG. We have with us Judge Hadley of Edwardsville, former circuit judge in the county in which that city is located. I introduce to the Convention Judge Hadley.

Mr. HADLEY. Mr. Chairman and Gentlemen of the Convention. First I want to say that what I have to say about the judiciary of Illinois is based upon twenty years of actual practice in the courts of Illinois, together with six years of experience on the circuit court bench in one of the largest circuits in the State, known as Madison and St. Clair county circuit. I am not a fogy, I am not a sentimentalist, and I do not care anything about the landmarks of the State so far as the judiciary is concerned. I do not care anything about what the Constitution of 1818 provided, or the second or third Constitution. I am interested in what this Constitution is going to provide in reference to the judgship and the court. I am not particularly interested in any one proposal that has been presented to this Convention, although there is one proposal that came in the other day that is in line with what I think ought to be done with reference to the judiciary.

I am going to say what I think ought to be abolished first. I think that the first thing this Convention should abolish is the city courts, and to provide in the Constitution that the legislature shall not provide for any more city courts. If you will go back some fifteen or twenty years and examine your Appellate Court reports you will find there were only five city courts in the State, Elgin, Aurora, Canton, Alton and East St. Louis. When we only had five city courts the city was paying the expenses of the courts, but the minute the legislature provided the State would pay the judges the number was increased to twenty-seven. You have twenty-seven city courts in the State of Illinois. The State of Illinois is paying one-fifth as much money for city court judges as for circuit court judges outside of Cook county. In the last ten years there has been only one city court in Illinois that has had business enough to justify being called a court of record, and that is at East St. Louis, and they sent 177 cases to the fourth district. The other courts have sent from one case to twenty. The next highest was

Granite City, with twenty cases; the city court of Duquoin is a fair illustration of the city court; Duquoin has a population of between five and six thousand; it is a railroad town, a coal mining community and an agricultural community, and the judge of the city court of Duquoin is probably one of the best judges in the State; he sustains that reputation, a splendid lawyer, a good judge, and the city court of Duquoin has sent three cases in ten years to the Appellate Court to be determined. The city courts of Beardstown, Zion City and Charlestown have not sent a single case to the Appellate Court, and five or six county seats have city courts, but not enough business to keep the circuit court going. It is a tremendous expense to the State, and to the taxpayers of the county. In my own county we have two courts, one at Alton and one at Granite City, and I remember a few years ago they had a grand jury at Alton in session two days and indicted two boys for petit larceny, and it cost the county between eight and nine hundred dollars to indict those two boys for petit larceny; four or five terms of court, four or five grand juries and a panel of petit jurors and maybe two panels and absolutely nothing doing. I would abolish that court. Under the present system every city in Illinois with three thousand or more population is just as much entitled to a city court as any city that now maintains one, and if this Constitutional Convention does not want to hold down city courts, you are going to be paying out some more money for city court judges and for circuit, Supreme and Appellate Court judges and everything else, and by all means that court should be abolished. I think in addition to that the county and probate court should be abolished, and in lieu thereof to provide one court for a county. If I were a member of this Convention, I would introduce a proposal to the effect, I would call it the superior court for each county. A good many counties would require only one judge, others two or three, and up to four or five. Cook county would require a great many. I am in favor of that, and I will tell you why. I believe in discussing this matter that we should call a spade a spade, and I want to speak now to the lawyers in particular that are members of this Convention. Go right back home and look at your county judge or look at your probate judge—I have reference now to counties outside of Cook county, and see where that man stands as a lawyer as compared with the other members of your bar. You will find that the best lawyers in your county will not aspire to the county judgeship, or probate judgeship, they don't do it. When a member of the bar is going to bring a lawsuit and the county court has jurisdiction of that lawsuit he doesn't bring it in the county court, he goes to the circuit court and brings a suit there. I am speaking from experience and observation. When he takes it to the circuit court; in a large majority of the cases that arise in the justice of the peace court, when appealed, are not taken to the county court, they go to the circuit court, and I think every lawyer that is a member of this Convention does exactly the same thing. Today your county judges and your probate judges outside of Cook county are sitting around three-fourths of the time doing nothing. Take in Madison county, my county, with a probate and a county court, the circuit judge upstairs is busy from morning until night, six days in the week, while the other two judges are sitting around drawing their salary and doing nothing; the same thing in St. Clair county, while they might as well be helping out upstairs. It has been said here that the probate judge is a man that should have special qualifications to administer the probate law of the State, in settling up estates. What is there in the probate court about settling up an estate? It is a matter of bookkeeping, a matter of accounts, that is all it is, and do you suppose now, taking any circuit judge that you have today, would he not make as good a probate judge as the one you have? I have no doubt he would make a better probate judge than any probate judge that is sitting. Would you say that Judge Smith of the circuit court would not make a good probate judge? He would make as fine as any probate judge in any county in Illinois. Can you say the same of your county courts? I do not think you can.

Judge Cutting referred to the courts of California. I want to say to you some years ago I had the pleasure of spending about six weeks in the State of California, and I went down to the court house in several places of the State and inquired into their system and I found they have a superior court for the county and it is the only court in the county. When I was in Los Angeles they had nine superior court judges in the county. The oldest man on the bench, a man that had had the longest experience on the bench, a man that had the reputation of being the best judge of the county and who was at the time chief justice of the superior court of Los Angeles county was holding down the probate division and would remain there for a period of six months, when he would be changed to another division. Two other judges were holding the criminal division and two others holding the law or chancery calendar as we call it, although California is a code state, and it is all by petition and answer. They divide up the work and had one clerk, and that court had absolute jurisdiction of all matters the same as our county, circuit and probate courts in this state, and I want to say the system worked out splendidly. I afterwards went to Ventura, a small county, and they had one clerk and one judge. I got well acquainted with the judge and he told me that his court was open all the time, and he showed me his probate petition and criminal docket. He was waited upon by a jury at certain intervals, but the court was open all the time. I said, "Judge, what do you do when one of the parties desire a change of venue, or when local matters are set that you do not care to try the case, what do you do then?" He said, "I telephone to the judge in the adjoining county and he comes down, and if I have a case that takes two or three days I go over there and take his court for him, and I often go to Los Angeles and help them out down there."

What is the use of trying a matter in the probate court by a jury? Say it is a petition to probate a will or objection to executors' report, and you thresh it out there for a day or two and one side or the other is not satisfied with the judgment of the court, and the circuit court tries it over again *de novo* and it goes to the Appellate court. What is the use of all that? Why not have one court and fix the salary at such figure that the best lawyers in the county will aspire to the position and there will be less number of appeals? Just to show you, as it comes to my mind, how many counties there are in the State of Illinois where the judge of that court is a layman, never studied law. Now, there are some. In Monroe County there is one, and very likely there are others. Mr. Driemeyer, who is one of the attorneys for the Clover Leaf Railroad in Illinois, told me a few years ago he went to the central part of the State to argue some tax objections for the Cloverleaf Railroad, and he said who should come in to hear those tax objections but a blacksmith. Now, submitting a legal proposition to a blacksmith that was following the trade of a blacksmith and holding the office of county judge for a salary. He said there is no use of arguing those objections, I have made up my mind to overrule them. But Mr. Driemeyer told me that he had nothing more to do that day and he thought he would take up his time and argue those objections before the blacksmith, and he did, and he overruled them, and he took his case up to the Supreme Court, and they overruled the judge. The board of supervisors or county commissioners fixes the salary of county judges and they will fix the salary at such a figure that the best lawyers won't have the office. If a good lawyer takes the office he holds it for a few years and gives it up and goes into the practice, and there are many instances where men are elected to that office who are not qualified, and that necessitates the taking of appeals so that your clients will obtain that justice they are entitled to in the trial court. I believe if the salaries of those positions were fixed at a figure that would be attractive to the best lawyers in the county that you would get the best results possible. Those are some of the reasons why I would abolish the probate and county courts and establish one court for the county.

Now, we will go to the Appellate Court. What is the Appellate Court today? As now constituted it does not amount to anything more than a master in chancery's court or a commissioner's court. They are appointed

by the Supreme court, the same as the master in chancery would be appointed by the circuit court and they hold office for three years, and I know of instances where two circuit judges of the same circuit were both trying to get on the Appellate bench, and finally they compromised whereby one would take it for three years and another would take it for three years; consequently you are always changing judges. We have four of them in the State now, four independent courts, and you can find a decision any way you want to in the Appellate Court reports, and the opinions are not binding except in that particular case. You never see the Supreme Court citing cases from the Appellate Court. It does not amount to much as it is constituted. I would provide to bring that court up to the same standard, bring it up so it will have that high respectability that our Supreme court has, and I want to say that our Supreme Court today stands as well in the other jurisdictions as any other State in the Union, and it ought to remain at that high standard, and let us bring the Appellate Court up to the same standard. In order to do that I want to distinguish it from the old Appellate Court, and I will call it the Illinois Court of Appeals, for instance, and I would have one court instead of four, and I would have, say, well about sixteen judges for that court, and I would elect them, four of them from each district as they are now constituted, and they would all be one court, with the seat of the court here at Springfield. I would elect them for a term of six years, to be elected in June at the same time as the superior court judges would be elected under my plan. That court would be open all the time for the transaction of business. That court would be presided over by a chief justice, who would assign three or four of the judges to go down, say to Mt. Vernon; personally, I would say to East St. Louis, now is a good time to change it, because St. Clair and Madison counties furnish about three-fourths of the business for that court, but be that as it may, three judges would go down to East St. Louis and Mt. Vernon, as the case may be, and go about four times a year. Now, under the present system they only have two terms of court a year. I would have two four times a year for the purpose only of having them hear oral arguments; a like number of judges of the court of appeals would be at Springfield for the purpose of hearing oral arguments, the same at Ottawa and then in Chicago practically all the time, and then one of the judges who hears oral arguments would write the opinion in the case and then that opinion to be submitted to the entire court here at Springfield and become the opinion of the entire court and not an independent court of three judges as under the present system. I would elect these judges, I would not have them appointed, because there is not anything that better qualifies a man for the judgeship than experience. You would give them enough Appellate Court work, which develops them, and they become better judges; they are elected for six years, and if they give satisfaction they will go back for six years more. Our Supreme Court is very seldom changed, and they become better qualified the longer they serve on the bench, and if you follow that plan with reference to the court of appeals you would find in all the districts the best lawyers in the districts would be nominated, and elected and they would devote their entire time to the office in certain cases, and their judgment would be final; and then, take the practice as it is now, say it was a case that could be taken from the court of appeals on a writ of certiorari; if the Supreme Court refuses to grant the writ of certiorari from the circuit court finally it would put the stamp of approval that would be respected by the other courts in the county. One court of opinions and one court in session all the time.

Mr. FIFER (McClean). What classes of cases would they have jurisdiction of?

Mr. HADLEY. The same as they have now. Something was said this morning by Mr. Craig. Now, about the Supreme Court; the Supreme Court can take care of itself; up to a few years ago when you could appeal direct from the Appellate to the Supreme Court, the Supreme Court was swamped with business and was likely to get far behind, but the Supreme Court of Illinois prepared and presented a bill and induced the legislature to pass the certiorari law and that law was written by the Supreme Court and had their approval and they were the ones who got it up and got it through. I

do not think we could improve on that system any. You will find some lawyers opposed to the certiorari law and some in favor of it, but you will find every lawyer that has succeeded in getting his writ of certiorari is in favor of it, and if he is denied he is against it. Personally, I am for it because I got a writ of certiorari yesterday. (Laughter.) Something was said this morning about whether it was a hard matter, whether you could get into the Supreme Court; that depends on whether you get in or not; it depends on your success with your case whether you like the law or don't like the law. I think the law as it stands now is as good as you can make it. Don't you worry but that the Supreme Court can take care of itself. It is right up with its work. I remember one time when Judge Vickers was alive, he was telling us about getting a letter from a Supreme Court judge of Colorado; he wanted to know why the Supreme Court of Illinois should be right up with its work and was not behind the way they were in Colorado, where they were three or four years behind with their work. The judge said, "I did not answer his question as frankly as I would liked to have if I had known him; if I had been acquainted with him I would have said to him to get down and work;" in the State of Missouri the Supreme Court is four years behind with its work; no reason for it; the Supreme Court of Illinois will take care of itself. Now, with reference to whether it is going to get behind with its work; as far as the Supreme Court is concerned, I would leave it as it is with the possible exception of increasing the number to nine and let the three judges come from the first district to sort of balance it up with the balance of the State, but in all instances I would provide for the payment of judges' salaries out of the State treasury and make this such an amount that it would be attractive to any good lawyer in the State to aspire for the position. No matter how small the county may be you will always get the best material if you will pay the price.

Now, so far as the justices of the peace are concerned: That is one of the oldest landmarks in this State. Now, there are certain communities in the State that are best served by a justice of the peace court, and other communities in the State that it is the worse court you could possibly have. I would do this, I would provide for a justice of the peace system for the rural districts in particular, and let it alone, but provide for the justice of the peace. I would go further and provide that the legislature might provide for a municipal court. I do not know that I would call it a municipal court, I would call it an inferior court in lieu of justices of the peace in townships. I would say in townships having a population of from 10,000 or 15,000, not over, and then provide that no expense of that court should be borne by the State of Illinois. In other words, that if a community wanted to provide for an inferior court in lieu of the justices of the peace the legislature could provide for it and the municipality or the township would vote on it at the polls. In regard to these courts, I have no confidence in the legislature. They will turn around, will have some sort of courts in the cities at the expense of the State. I would provide that the expense should be borne by the municipality or township. I live in Madison county and practice law in East St. Louis. I want to say that the justice of the peace courts of East St. Louis are in about the same condition that the justices courts in Chicago were when that office was abolished and a provision made for the installation of the municipal courts. The system in a city like East St. Louis, in plain language, is rotten, and it should be abolished, and if it was up to the City of East St. Louis to abolish the justice of the peace court and establish in lieu thereof an inferior court, it would carry almost unanimously. Those are the communities where you want to get rid of your justices of the peace, not out in the small agricultural community or a city of two or three thousand population, your justices of the peace are all right, but when you get in these industrial centers where you have every nationality on the face of the earth the conditions are entirely different, and you want to have a municipal court and to get away from the justice of the peace and the constable.

Mr. FIFER (McLean). You are not in favor of abolishing the justices of the peace, but leaving it optional with the county?

Mr. HADLEY. Leaving it optional with the township. Now, for instance, in my own county in Alton and the Tri-Cities, Madison, Venice and Granite City are so close together we call them the tri-cities, but there are three municipalities there, and it is practically in two townships. Now, in that community there should be an inferior court in lieu of the justices of the peace, and the same at Alton and the same at Collinsville, my old town, but when you come to the agricultural communities the justice is all right. They elect good men and they fill the office with some dignity and the people are satisfield with it. I would provide for the legislature to pass a law providing for this inferior court in townships in lieu of justices of the peace and if the community did not care to elect anybody, or if they elected some one and they did not qualify, well and good, but the law is there. That would be my idea with reference to the justices of the peace.

Mr. MILLER (Cook). Why would you limit the townships that may establish a municipal court in lieu of the justices of the peace to those having a certain population?

Mr. HADLEY. There is a reason for that. I can illustrate it probably better than just answering the question.

In my old town of Collinsville, it is a mining and manufacturing town, with smelters and that sort of thing, with a population of ten thousand, but the city and the township are co-extensive; the balance of the township is agricultural, don't you see, so if you were to abolish the justices of the peace in the city and not in the township it would leave the balance of the township with the justice of the peace and the inferior court in the city. I would make it apply to the entire township.

Mr. MILLER (Cook). Suppose you have a township with a less population than the number you mention; why wouldn't it be entirely safe and proper to leave the option with the township also to have that sort of court where the judge was paid a salary instead of the justice of the peace if they saw fit to do that, since the financial burden would be on that township anyhow?

Mr. HADLEY. My reason for that is this, in a smaller township, as a natural consequence, the salary of the judge would be in proportion to the population; therefore, the chances are you would have the same man as judge in your court as you would elect as a justice of the peace.

Mr. MILLER (Cook). Well, that is so, but he would not have the same inducement to not be on the square than if he had fees. No doubt you will agree with me there are certain sections in the State where the justices of the peace and constables were nothing short of licensed highwaymen, and some people think that is the situation now in some districts in Cook county, but obviously the chances would be better even if you had the same man of having a good administration of justice in the petty courts if you were on a salary.

Mr. HADLEY. Yes.

Mr. MILLER (Cook). Why wouldn't it be perfectly safe to leave it to the township to abolish the justice of the peace and get the same man, perhaps, on a salary? Would not that sort of system operate well, don't you think?

Mr. HADLEY. It might work well, but not as well as the one court idea, that is what I think.

Mr. MILLER (Cook). Can you give us a reason, judge, why you think that would not work as well?

Mr. HADLEY. Because you still have the system of reports and your courts handing down its own opinions and even if the Supreme Court passed upon the question it would go into the Appellate court as the law of that case, and if you wanted to find otherwise you would have to hunt it up in the Supreme Court reports.

Mr. MILLER (Cook). Your system, you would have nine judges sitting in Chicago, and perhaps as many more sttting down the State?

Mr. HADLEY. No, I think not; you have nine judges outside of Chicago now, and they do not devote their entire time to the court; they only hold two terms a year and they hold circuit courts besides.

Mr. MILLER (Cook). Do you think six would do?
Mr. HADLEY. Yes.
Mr. MILLER (Cook). That would be fifteen?
Mr. HADLEY. Yes.
Mr. MILLER (Cook). Do you think you could get the opinion of the whole court if you had it as high as fifteen?
Mr. HADLEY. Yes, I think in some instances.
Mr. MILLER (Cook). Some of the judges of the Supreme Court think if the number were increased in that court from seven to nine it would lessen the participation of the whole court in the opinions of the court. Have you an opinion on that subject?
Mr. HADLEY. No, I haven't any.
Mr. MILLER (Cook). Of course, if that is so, of course there would not be likely to be a participation in each opinion if there were fifteen?
Mr. HADLEY. Not if that were true.
Mr. MILLER (Cook). Why do you think, judge, that an election of the judges to the court of appeals would produce better results than the selection by the Supreme Court from among those elected to the circuit bench or superior bench, or whatever you call it?
Mr. HADLEY. My observation has been we have never lacked men well qualified in any supreme district in the State that were willing to accept the office, and we always elected the best man, but on the other hand the Supreme Court has on many occasions appointed men to the Appellate Court that they did not want to appoint, but they appointed them because it was the best they could do under the circumstances; they are not always satisfied.
Mr. MILLER (Cook). Do you think we could get better men to run for judge of the Appellate Court than for judges of the circuit court?
Mr. HADLEY. Yes.
Mr. MILLER (Cook). Isn't it true now that you can get as good men as there are to run for the circuit court?
Mr. HADLEY. No, I know good lawyers who would make splendid judges that would not have the office.
Mr. MILLER (Cook). Do you think they would have the Appellate Court?
Mr. HADLEY. Yes, they would be glad to take the supreme judgeship, but not the circuit court.
Mr. MILLER (Cook). Have you studied the Ohio system, where they do elect the Supreme Court judges?
Mr. HADLEY. No.
Mr. MILLER (Cook). I think the general opinion is that they do not get any better judges for their Appellate Court than the court of common pleas, I think that is their experience there. Would you favor giving the court of appeals or Appellate Court, whichever it might be called, any right or jurisdiction to hear additional evidence in non-jury cases under certain circumstances?
Mr. HADLEY. I had not thought anything about that proposition.
Mr. MILLER (Cook). They do that in Ohio and have done it for a long time, apparently with satisfaction. You perhaps know they do it in the English courts.
Mr. HADLEY. Yes. I have no opinion as to that, I do not know anything about it, what the Ohio court has done.
Mr. MILLER (Cook). I had an experience in the United States Court of Appeals where the Court of Appeals asked the parties to consent to hear additional evidence; it was a case involving a large amount and it was consented to and with satisfaction to everybody there. I did not know whether you had happened to think of that.
Mr. HADLEY. I have not given it any thought.
Mr. FIFER (McLean). Did you say you would have a circuit judge in each county of the State?
Mr. HADLEY. Yes.
Mr. FIFER (McLean). Hardin is about the smallest county.

Mr. HADLEY. Yes.

Mr. FIFER (McLean). And if you had one judge for Hardin county he would not have much to do, but here in Sangamon county you would have one judge and as many other judges as the business would require. Would you have those judges on an equal salary?

Mr. HADLEY. No, sir. I think the judges of Cook county ought to have a much larger salary than other judges.

Mr. FIFER (McLean). Here in Springfield there would be too much work for the judge to do circuit court work and probate court work?

Mr. HADLEY. Yes.

Mr. FIFER (McLean). How would you determine how many judges were necessary to do the work in this county? Circuit and probate?

Mr. HADLEY. That would largely be determined by the population.

Mr. FIFER (McLean). That could be fixed by statute?

Mr. HADLEY. Yes.

Mr. FIFER (McLean). You would not abolish the justice of the peace?

Mr. HADLEY. No, sir.

Mr. FIFER (McLean). They are about the oldest judicial offices known to the English people, both in this country and in England, and they perform a very important function outside of trying civil lawsuits; they are conservators of the peace and bring a judicial office home to the people of the township. Do you think it would be wise to allow the people, even if they wished to do so, abolish those offices?

Mr. HADLEY. I think it would.

Mr. FIFER (McLean). It is their duty in cases of rioting and fights and all disturbances of the peace, they become the conservators of the peace and are clothed with the dignity of the majesty of the law; don't you think they perform a very important function in that regard?

Mr. HADLEY. Yes, they do, but that privilege is abused in certain localities, and that is the reason why I would let the people determine whether or not they would continue under the justice of the peace system or inferior court system.

Mr. FIFER (McLean). There was a bill before the last legislature to provide for a rural police. That was to serve possibly through the remote townships. With the good roads and the automobiles we have and the telephones, if there was a disturbance in any outlying township you could concentrate in a few minutes the constables and the justices of the peace in that county in one place. Don't you think that is worth something?

Mr. HADLEY. Yes, in cases of that kind.

Mr. FIFER (McLean). It frequently happens. I have been very reluctant of abolishing the office of justice of the peace and constables of townships for that reason, but outside of that I think your propositions seem to be very good, although I am not committed to any theory on this judicial matter.

Mr. HADLEY. There is one thing I overlooked with reference to this superior court. I would further provide that the court might hold a branch or try certain cases in some cities other than the county seat in lieu of the city courts. For instance at Granite City and Madison, Granite City, Madison and Venice, the three are together; the cases are filed in the clerk's office of the court; then the judge may assign certain cases to be tried at Granite City and he empanel a jury at Granite City. He would provide for it in law and chancery cases, not criminal, and then try certain cases there, cases that might arise in Venice, Granite City or the surrounding towns. I would make the provision that the court could be held there if the municipality would provide proper quarters, and let the judge determine when and where he would hold the court.

Mr. GALE (Knox). I just wanted to ask in regard to your idea of consolidation of the courts. That would carry with the consolidation of the clerk's office?

Mr. HADLEY. Yes.

Mr. GALE (Knox). Isn't it a fact, isn't it true in your county as I think it is in mine that the county clerk has about all the work any one man can do, isn't he the most important officer in your county?

Mr. HADLEY. Yes, I think the county clerk should remain for the purpose of transacting the county business.

Mr. GALE (Knox). Would you have a circuit and superior court clerk or consolidate it with the county clerk and have a recorder?

Mr. HADLEY. I would have a clerk of the superior court.

Mr. GALE (Knox). And leave the county clerk with his work?

Mr. HADLEY. Yes.

Mr. GORMAN (Cook). I would like to ask you, Judge, if you have an opinion as to whose legal attainments are of the higher standard, the lawyers who are from time to time in the General Assembly or the judges of our several courts?

Mr. HADLEY. Well, that would all depend upon what question was presented for determination; the judges could answer some questions better than the lawyers of the General Assembly.

Mr. GORMAN (Cook). The reason I asked you, Judge, I wanted to know if you had an opinion as to where our practice act and our method of procedure should originate, whether from the legislature or from the several courts?

Mr. HADLEY. That should eminate from the Supreme Court, I think.

Mr. DUPUY (Cook). In regard to the Appellate Court, Judge, what would you think of this as an alternative plan, namely, to elect enough extra circuit court judges who should be relieved of trial work to constitute the Appellate Court and let them be appointed as now by the judges of the Supreme Court? In Cook county wouldn't we get a better Appellate Court bench by appointing out of the total number of circuit court judges than we would be likely if we selected special men for the Appellate Court, wouldn't that plan command itself to you as an alternative plan?

Mr. HADLEY. I don't think so any more than the present system would be the best.

Mr. DUPUY (Cook). Your plan contemplates one judge for this county?

Mr. HADLEY. Yes.

Mr. DUPUY (Cook). Suppose that plan should not be adopted, but we had a continuation of what we have now; wouldn't you favor electing an extra circuit judge in large circuits, some additional judges in Cook county and let the Supreme Court as now make the appointments from the whole circuit bench rather than try to elect particular men to be judges of the Appellate Court?

Mr. HADLEY. No, because I think the salaries of the judges of the court of appeals should be greater than the circuit court judges so it would be attractive to lawyers who would not accept the circuit judgeship at the salaries that are now paid.

Mr. WALL (Pulaski). You would call the Appellate Court the court of appeals?

Mr. HADLEY. Yes.

Mr. WALL (Pulaski). Isn't it your opinion, Judge, that the men running for the office of the court of appeals, lawyers would be attracted to the name of the office because of the dignity of the court in such a manner that the best lawyers would run for that office who would not run for a circuit court judge.

JUDGE HADLEY. Yes.

Mr. WALL (Pulaski). Isn't it also your opinion, Judge, that if the tenure of the office was made the same as that of the Supreme Court judges, and that being elected to a higher court and performing a higher judicial duty, and having no other judicial duties to perform, would probably become more efficient even if their ability when elected would be the same?

Mr. HADLEY. Yes.

Mr. WALL (Pulaski). Isn't it true that to some extent, being human like all other men, loses that particular ability and judicial acquirement necessary in the *nisi prius* court when they get into the Appellate Court and

become more or less impatient, of course, or attending to their duties as Appellate judges a great deal of the time and the judicial circuit loses some efficiency because of that?

Mr. HADLEY. Yes.

Mr. WALL (Pulaski). Now, I want your opinion, Judge, on this: It has been suggested that the increase in the Supreme Court from seven to nine members would possibly deteriorate the individual effort or the interest that might be displayed in the examination of questions by the court. Is that your opinion?

Mr. HADLEY. I have no opinion on that, Judge Wall, I don't know; I think the judges of the Supreme Court could answer the question better than anybody, or the ex-judges of the court, I don't know.

Mr. WALL (Pulaski). Now, with reference to justices of the peace: As a circuit judge, I wanted to ask you if this was not your experience. Upon your appeal docket you had a great many appeals from justices of the peace in your circuit. Would you say that the sum of money judgment rendered in those appealed cases during the six years of your incumbency of the circuit bench amounted to as much as the cost of the trial of those cases?

Mr. HADLEY. No, sir, it did not.

Mr. WALL (Pulaski). The county commissioners could well have given a warrant on the county treasury for the amount and saved the money?

Mr. HADLEY. Yes, I certainly think so. I remember two years ago the clerk of the court in East St. Louis, the city court, made up a statement of the cases in the two divisions, the two courts, two panels of jurors, two bailiffs and court reporters, and the entire amount of money and the cases tried for one week in the two divisions amounted to $118.

Mr. WALL (Pulaski). Now, you say you are of the opinion that the election or continuation of the justice of the peace system should be the result of a referendum?

Mr. HADLEY. Yes.

Mr. WALL (Pulaski). Is it your opinion, judge, that in many of the townships that they would never require the referendum vote to be taken?

Mr. HADLEY. I do not think 90 per cent of the townships of the State that would ever elect to abolish the justice of the peace and substitute in lieu thereof an inferior court; it would only happen in the large cities.

Mr. WALL (Pulaski). The country justice of the peace does not do anything like the business he used to?

Mr. HADLEY. No.

Mr. WALL (Pulaski). Isn't it true in Southern Illinois, I will say from Alton to Cairo, Cairo to Danville, that the justice of the peace, the country justice of the peace, does not do one-tenth of the business he did 25 years ago?

Mr. HADLEY. Yes, sir.

Mr. WALL (Pulaski). Is not that brought about by the election of police magistrates, the building of good roads enabling the people to get into town?

Mr. HADLEY. Yes.

Mr. WALL (Pulaski). Isn't it also true that justices of the peace who live in the country precincts not at a railroad station or incorporated city or village, that none of them live more than five miles from an incorporated city or village?

Mr. HADLEY. Practically so.

Mr. LINDLY (Bond). Isn't it your experience as a practicing attorney that it is not the good roads or the growth of municipalities that has caused a decrease in practice before the justices of the peace, but the attorneys themselves; when they have a case they do not take it before a justice of the peace, but before the other courts, is that the reason for the decrease?

Mr. HADLEY. To a certain extent, but people have come to know that it is foolish to get into court and they stay away from it as much as they can; they do not go to litigation over a calf and cow like they used to and

then fight it out for ten years after the calf has died. People are more peaceable in the country districts than they used to be; I do not think that has anything to do with it.

Mr. HAMILL (Cook). I understand your plan to be with reference to the Appellate Court, that three or four judges of the court should attend at different parts of the state and hear oral argument and report their opinion to the court *en banc?*

Mr. HADLEY. Yes.

Mr. HAMILL (Cook). What is your opinion upon the value of the opinion of the remaining 15 or 16 judges who have not heard the oral argument of that case?

Mr. HADLEY. They would be informed of the facts and the law, and you would have a unanimity of opinion. It would be a good deal like submitting a case as most of them are now submitted, on written briefs and argument.

Mr. HAMILL (Cook). Don't you think this would be apt to be the result, that three men hear the oral argument and they agree upon the conclusions and they reported back naturally through their own point of view to their conferees on the bench; the others presumably have neither read the briefs nor heard oral arguments. Do you think the judgment of the other fifteen men will be of much value?

Mr. HADLEY. If the case was submitted to the court I think the written briefs and arguments should be submitted to the entire court, as to the Supreme Court as on brief and written argument and a case is assigned to one of the judges to write the opinion, and he brings it in and the whole case is discussed by the whole court.

Mr. HAMILL (Cook). What I fear would be the result—I approve of the plan on the whole very highly, is this, the members of the Appellate Court who do not hear the oral argument would be tempted to slight the written briefs and argument and rely on the particular members of the bench who heard the oral arguments. In the Supreme Court they all hear it or none hear it. In your suggestion a part would hear oral argument and the rest would not; it seems to me the temptation would be for those who did not hear it, three or four having heard that case, and having studied the case, and having reported their conclusion, that the rest would be influenced by that; your plan looks all right on the face, and I approve of it.

Mr. HADLEY. I have too much respect for the court to think they would do that.

Mr. HAMILL (Cook). We would have a Supreme Court composed of seven or nine?

Mr. HADLEY. Yes.

Mr. HAMILL (Cook). And an Appellate Court of fifteen to eighteen?

Mr. HADLEY. Yes.

Mr. HAMILL (Cook). And the opinions of the Apellate Court would be the opinions of those fifteen or eighteen men. Wouldn't it be something of an anomaly to have a court of seven or nine reviewing the decision of a court of seventeen or eighteen?

Mr. HADLEY. I do not think so.

Mr. MILLER (Cook). You said something about the Supreme Court would take care of itself in the matter of work under the certiorari act?

Mr. HADLEY. Yes.

Mr. MILLER (Cook). But you remember that the legislature has from time to time made appeals direct from the trial court to the Supreme Court?

Mr. HADLEY. Yes.

Mr. MILLER (Cook). One late one, I am not sure it is the last, one late law in that respect was the Workmen's Compensation Act; all those appeals now go to the Supreme Court, and they are almost exclusively questions of fact in those cases, and the result has been, I think, and I think that is the opinion of the judges of the Supreme Court, a very large number of cases go there and it is impractical to have oral arguments in all cases. Don't you think that really the most satisfactory way is to have

oral argument in each case and to have an opinion written a short time after the oral argument is made?

Mr. HADLEY. Yes, I think so from my experience on the bench as well as my experience in the Supreme Court and Appellate Court.

Mr. MILLER (Cook). Don't you think it is a time saver to have them decide the case while it is clearly in their minds and thus save a lot of time?

Mr. HADLEY. Yes.

Mr. MILLER (Cook). And do it with satisfaction to everybody?

Mr. HADLEY. Yes.

Mr. MILLER (Cook). With that in view, what would you think of permitting the Supreme Court to decide by rules the jurisdiction, that is, as to what jurisdiction should rest in the Court of Appeals or what should be reserved to them; let them decide that matter in all cases; of course make it incumbent upon the Supreme Court to pass upon the case where two courts of appeal had differently decided it.

Mr. HADLEY. At first blush I should think offhanded that ought to be a question for the legislature.

Mr. MILLER (Cook). The tendency of the legislature, somebody in the legislature has had a case and could not get to the Supreme Court with the case and will offer a measure making an appeal direct from the trial court to the Supreme Court.

Mr. HADLEY. I think that the new law is really better than the old law for the Supreme Court. Under the old law, if the trial court simply certified that the case was a proper case to be reviewed by the Supreme Court the Supreme Court had to take jurisdiction of it.

Mr. MILLER (Cook). I am referring to the class of cases—for instance, the one I referred to last, Workmen's Compensation cases.

Mr. HADLEY. Under the old law the circuit court, whether he affirmed the award of the board or set it aside, quashed the record, if the circuit court judge simply entered an order that it was a proper case to be reviewed by the Supreme Court, the Supreme Court had to take it. Now, if they are not satisfied with the judgment of the circuit court, you must petition the Supreme Court for a writ of certiorari.

Mr. MILLER (Cook). Isn't the tendency in cases of petition for certiorari from a trial court to a Supreme Court, on that kind of case, that the matter will be considered by one man?

Mr. HADLEY. I do not know whether it is considered by one man or not. The court can tell you if they wanted to; I do not think they would.

Mr. MILLER (Cook). I do not know anything about it.

Mr. HADLEY. I have a high regard for the Supreme Court, because yesterday I got a writ of error in a compensation case myself. The records in the compensation case are short, they are not long records like we had in damage suits, and it does not take much of the Supreme Court's time to go through the record and write a short opinion, because in most of those cases they are submitted pretty near on an agreed statement of facts.

Mr. MILLER (Cook). There is no danger of the legislature overcrowding the Supreme Court?

Mr. HADLEY. If there was and the Supreme Court thought that there was such a danger they would devise some means of being relieved of it like they did when they provided certiorari law.

Mr. MILLS (Macon). Judge, what court do you think is the most important to the ordinary people of the county in this State, the county court, the circuit court, the Appellate Court or the Supreme Court?

JUDGE HADLEY. I think the circuit court.

Mr. MILLS (Macon). Why?

JUDGE HADLEY. Because it is the trial court, and the court of original jurisdiction in most matters.

Mr. MILLS (Macon). What portion of the people are benefited by the trial of the cases in the circuit court?

JUDGE HADLEY. Well, I don't know as there is any particular person excepting the parties to the suit.

Mr. MILLS (Macon). That is the point. What persons are interested in the county court?

JUDGE HADLEY. None excepting those directly interested in some proceeding in the county court.

Mr. MILLS (Macon). Don't all the probate matters go into the county court?

JUDGE HADLEY. They do where the county is not large enough for a probate court.

Mr. MILLS (Macon). And it has charge of all the guardians?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). And it has charge of all the conservators?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). And all the probate matters?

JUDGE HADLEY. No.

Mr. MILLS (Macon). In the ordinary county down State?

JUDGE HADLEY. No.

Mr. MILLS (Macon). What ones are involved in other courts?

JUDGE HADLEY. The circuit court mostly.

Mr. MILLS (Macon). All the paving and sewering?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). Anything of that kind in the circuit court?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). Are you sure about that?

JUDGE HADLEY. Yes, sir, I have had them; I know what I am talk ing about.

Mr. MILLS (Macon). Well, I think I know something about it, too The boys and girls that are derelict are brought in.

JUDGE HADLEY. They go into the county court.

Mr. MILLS (Macon). They go into the county court?

JUDGE HADLEY. Yes.

Mr. MILLS (Macon). And they are under the control of the county court?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). Isn't the business that you have stated now that is transacted by the county court of more importance to the people of the county as a whole than all of the work that goes through the circuit court?

JUDGE HADLEY. No, sir; I don't agree with you.

Mr. MILLS (Macon). Well, as I understand you to say, the only parties interested in the litigation in the circuit court are the parties in suit?

JUDGE HADLEY. I didn't catch what you were getting at when I made that statement. Oh, yes, you will find that in the circuit courts and in the administration of the equity powers, that is, suits in chancery, and the criminal courts, they are as important to the general public as anything might be.

Mr. MILLS (Macon). The criminal courts are confined to felonies, are they not?

JUDGE HADLEY. No, a great many misdemeanors.

Mr. MILLS (Macon). Largely.

JUDGE HADLEY. But it has charge, even in felony cases, of sending boys and girls to the reform school.

Mr. MILLS (Macon). Isn't that nearly all certified down to the county court and transacted in the county court?

JUDGE HADLEY. Not in our circuit.

Mr. MILLS (Macon). Not in your circuit?

JUDGE HADLEY. No, sir.

Mr. MILLS (Macon). You don't know how it is in the other circuits?

JUDGE HADLEY. I don't know anything about what they do in the other circuits.

Mr. MILLS (Macon). Did I understand you to say that the Appellate Court should be appointed by the Supreme Court?

JUDGE HADLEY. No, sir; I am in favor of electing judges of the Appellate Court.

Mr. MILLS (Macon). Why?

JUDGE HADLEY. Because I think you get better men, and they would be elected for a definite term of more than three years, and they would devote their entire time to it; pay them a salary that would justify the best lawyers in the district aspiring for the office.

Mr. MILLS (Macon). Are the judges of the circuit courts of Illinois better than the judges of the Federal Court in Illinois?

JUDGE HADLEY. I will say this, that in my judgment there are some judges of the Appellate Court—of course they would naturally be circuit judges—that are far better lawyers and better judges than some Federal judges.

Mr. MILLS (Macon). That may be true, but on the average; I am talking of the average.

JUDGE HADLEY. Well, I would not say as to the average.

Mr. MILLS (Macon). Take the Supreme Court; don't you believe that it would remove the Supreme judges from stepping down from the bench into politics to have the judges appointed?

JUDGE HADLEY. For life?

Mr. MILLS (Macon). Good behavior, just the same as our Federal courts.

JUDGE HADLEY. No. I am afraid in the due course of time some of us common people could not get into the court room.

Mr. MILLS (Macon). Then it would be a selfish motive and not a patriotic motive?

JUDGE HADLEY. I don't know why, but my experience has been that certain Federal judges, after they have been on the bench for a few years, become so dignified that the average man can't get in the door without sending in his card.

Mr. MILLS (Macon). That isn't confined to Federal judges, is it; isn't that true with some of our Appellate Court and even some of our circuit judges?

JUDGE HADLEY. I have never found it so.

Mr. MILLS (Macon). You have never found it so?

JUDGE HADLEY. No, sir.

Mr. MILLS (Macon). I understood you to say that you would abolish the city courts, all city courts.

JUDGE HADLEY. All city courts.

Mr. MILLS (Macon). And you would unite the county courts and the probate courts in counties where they have both courts?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). And would you take anything away from the jurisdiction of the present county courts now?

JUDGE HADLEY. Oh, I would consolidate what is now the circuit court and the county court and the probate court all into one court.

Mr. MILLS (Macon). All into one court?

JUDGE HADLEY. Yes, sir.

Mr. MILLS (Macon). Take the medium counties of the State; would the judge have the time and the ability to transact all the business that is transacted in those three courts now?

JUDGE HADLEY. Well, I would provide for the election of enough judges to take care of the work. In certain counties, one judge could more than take care of the work.

Mr. MILLS (Macon). Yes.

JUDGE HADLEY. In others you would have to have two; in others three.

Mr. MILLS (Macon). The larger counties.

JUDGE HADLEY. I would provide for more judges.

Mr. MILLS (Macon). More judges.

JUDGE HADLEY. And one of them, they would have a chief justice to assign the work. They would have a chief justice.

Mr. MILLS (Macon). For how long?

JUDGE HADLEY. For six years. In providing now for the election of judges, I would provide that they be elected in June, the same as they

are now. I would elect the superior judges for six years; I would elect the Appellate Court judges for six years, or twelve years, if you want to. Then I would elect the Supreme Court judges for twelve years, and in case of a vacancy in the office of any judge, then I would provide that the Governor would appoint someone to fill the vacancy until the next general election, and then elect someone to take the place. I would not have any special elections. I would not put that burden and that expense upon the people, and in order to provide so that all of the judges would be elected at the same time, I would provide—take, for instance, Judge Duncan of the first district and Judge Farmer of the second. They were elected in 1915. Their term of office does not expire until 1924, but the judicial election will be in 1921. I would provide that each of those judges would hold office until the next judicial election, which would be in June of 1927, and then every twelve years thereafter.

Mr. MILLS (Macon). And then have all of the judges, the whole twelve, or whatever the number would be——

JUDGE HADLEY. Yes, I would arrange it so that any time a certain Supreme judge would expire, or the year they would expire, would be at every judicial election, every other one.

Mr. MILLS (Macon). You would not have all of the terms terminate at the same time?

JUDGE HADLEY. No.

Mr. MILLS (Macon). So that if there were nine, there would be three and three and three?

JUDGE HADLEY. Yes, so that the judicial election would come every six years.

Mr. MILLS (Macon). Thank you.

Mr. CUTTING. In your plan for municipal courts, would you give that court jurisdiction outside of the municipality?

JUDGE HADLEY. They are providing for it. I would provide for it in the entire township.

Mr. CUTTING. No further than the entire township?

JUDGE HADLEY. You might do this. Of course, these are only suggestions. You might give the legislature power to establish it in one, two or more townships if they wanted to get together and have it.

Mr. CUTTING. The rate of a justice of the peace is good in the country, is it not?

JUDGE HADLEY. Yes, sir.

Mr. BARR (Will). Judge, assuming you made the jurisdiction of the courts county wide, you would then really be called upon to provide the compensation from the entire county, rather than from some one township in which the court happened to be held, would you not? In other words, would it be fair for a township to have a municipal court judge? The court which it supported that had jurisdiction really furnished the judicial machinery that covered the whole county.

JUDGE HADLEY. I don't think so; I don't think there would be enough business originating from other points of the county to make any difference.

Mr. BARR (Will). Do you feel, Judge, that the class of lawyers, or the class of judges, that would be happy and inclined to like the work of the circuit court, that that same temperament would be willing to do the kind of work that is the daily routine of probate court work?

JUDGE HADLEY. Yes, sir, I do. Just as an illustration, Judge Struber was judge of the probate court of my county for four years. He left the office four years ago and was elected State's attorney, but he only came to Edwardsville three days a week, and in the three days he would dispose of everything in the probate court in an hour and a half. There is nothing special to do, and I think that under this other plan that a judge—take, for instance, judges in a county like Sangamon—I think he would be glad, after serving a year here in the trial work, to have about six months down in the probate court, as a sort of a rest.

Mr. BARR (Will). Would you think the probate work in the average busy county could be done, and also the circuit court or superior court work,

by the same judge? For instance, in your county and in our county—I come from Joliet, Illinois; we have at least one, and a good deal of the time two circuit court judges, almost all the time trying lawsuits, and the probate business, the matter of proving wills, and so forth, could that be taken care of and worked in so as not to cause serious inconvenience to persons interested in the administration of estates or serious inconvenience to those who are interested in the trial of the causes? You would have to continuously interrupt the court if the same judge were doing the probate business and doing the circuit court business, wouldn't you?

JUDGE HADLEY. Well, take in the larger counties where they have more than one judge; the work would be divided and the man that would be taking care of the probate work would probably have charge of the chancery docket, and the other judge would be taking care of the law docket and the criminal docket. I think the work would be divided up in such a way that it could easily be handled without any inconvenience to anyone.

Mr. BARR (Will). The salary that is paid to the probate judges, even in the larger counties, and the salary that is paid to the circuit judges, neither of which in my opinion is enough, are usually, however, quite different in amount, aren't they?

JUDGE HADLEY: Yes, sir.

Mr. BARR (Will). For instance, with us I think we pay $3,500 a year to the probate judge, and the salary of the circuit judge now I think is $5,000.

JUDGE HADLEY. Yes.

Mr. BARR (Will). The man who could do the probate court work very well might not be the same high class lawyer in the sense of a trial lawyer and a jurist that would be required in the circuit court; isn't that the fact, from practical experience in our big counties?

JUDGE HADLEY. Yes, sir, I think that is true.

Mr. BARR (Will). Our experience, without wanting to hold you any, is this: That our probate judge is usually quite busy. It seems that our probate business has increased tremendously in the last few years, while on the other hand I am inclined to think that our circuit court business has not increased in the same proportion, but the amount of probate business in the sense of the size of the estates, and so forth, has tremendously increased with us, so that we find that the entire time of our probate judge, with an assistant, is very completely taken up, and yet not in the same way that the time is occupied by the circuit judge, and with an entirely different kind of work; and I am wondering whether or not there would not be a serious disappointment in the practical working out of the work of the probate court and the circuit court in trying to utilize the same class of judge, doing the two so distinctively different kinds of work.

In our county court all of the matters of special assessments, tax matters, dependent children, and so forth, corresponding somewhat to the morals court, I suppose, in a limited sense, is carried on, and we find our county judge pretty well occupied. Now, it would occur to me that the probate business, which has increased tremendously, is going to increase in the years to come, and that it would be unwise to inaugurate a system that would in any way lessen the attention that might be given to that side of the work. Do you feel, judge, that those two lines of work, that is, the circuit court work, the trial of causes, and the probate business, could be done satisfactorily and willingly by the same judge; is that your feeling?

JUDGE HADLEY. Yes, sir, I think this: I think in the large counties like your county, where you have a large amount of probate work, I think in the selection of the judge, that someone peculiarly fitted for that sort of work would be one of the judges.

Mr. BARR (Will). Wouldn't you quite often find that one that is peculiarly fitted for that kind of work would not be peculiarly fitted for trial work?

JUDGE HADLEY. He may not be as well as someone else might be, but he would make a good chancellor and probably have the disposition of cases without a jury, and probably would develop into a good jurist for all kinds of work.

Mr. CUTTING (Cook). Don't you think, judge, that the fact that the complete original jurisdiction would be vested in these busy judges in a county large enough to have two would make a vast difference in the situation? Take probate work; in partition of real estate, in the administration of testamentary trusts, in the sale of real estate, don't you think that the judge who had the probate side of it would have a very large portion of that which now goes into the circuit court? The probate judge now does not completely administer the estate of a deceased person.

JUDGE HADLEY. No.

Mr. CUTTING (Cook). Under this system he would administer it from the time of the death of the testator, if he died testate, until the ultimate beneficiary received the distribution of the funds?

JUDGE HADLEY. Yes, sir.

Mr. CUTTING (Cook). It makes him a judge of at least as high an order as any other?

JUDGE HADLEY. As any other.

Mr. CUTTING (Cook). He would have very great questions to determine?

JUDGE HADLEY. Yes.

Mr. CUTTING (Cook). And those ought to be determined, as was suggested here this morning, by a man of circuit judge calibre, and if you had a man of that calibre, you would dispose of that and the other things on the theory that the greater includes the less?

JUDGE HADLEY. Yes.

Mr. CUTTING (Cook). Isn't it true in your experience, and I think Mr. Barr just referred to it, that things growing out of the administration of estates are constantly increasing in these days?

JUDGE HADLEY. Generally speaking.

Mr. CUTTING (Cook). And litigation like line fences and horse trades are passing to the beyond?

JUDGE HADLEY. Yes, sir, passing to the beyond.

Mr. CUTTING (Cook). And that administration law is comparatively much more to the fore than old fashioned litigated cases?

JUDGE HADLEY. Yes, sir.

Mr. CUTTING (Cook). And that it now requires for the determination of the administrative questions a man of calibre enough to dispose of them or any other matter connected with the administration of the law?

JUDGE HADLEY. Yes, sir.

Mr. MILLER (Cook). Judge, as perhaps corroborative of your idea, that a circuit judge might want to take a vacation and listen to probate matters, we have in Chicago, sitting there from time to time, two circuit judges of very good ability, sitting on the second floor of our court house for months at a time, untying knots as they come from the county clerk, and they have been doing that right along for months at a time.

JUDGE HADLEY. Yes, sir.

Mr. DIETZ (Rock Island). In the scheme proposed, is it contempleted that the judges from the several counties in the district would be assigned to other counties, or would you elect them from a district or circuit?

JUDGE HADLEY. No. sir; I would elect them from their own county.

Mr. DIETZ (Rock Island). Would you not think that you would get a better class of judges if they were elected from a district or a circuit where you had the composite judgment of a number of communities?

JUDGE HADLEY. I think not; I think not. If you are going to elect a judge for each county, what is the use of having the people in a half a dozen counties vote for him?

Mr. DIETZ (Rock Island). Well, of course, that is just asking me the same question.

JUDGE HADLEY. Yes. I don't think so. I think they should be elected from the county in which they preside. There might be a provision that the Supreme Court might assign judges from one county to another, something of that sort, but I can't see anything in electing a judge from each county and having another circuit vote on it.

Mr. DIETZ (Rock Island). We sometimes find in practicing in the different circuits in different counties frequently there are cases of a certain character that some particular judge does not care to try, or lawyers don't want to try, before that particular judge.

JUDGE HADLEY. Well, that is very easy to get around. When I was on the bench the lawyers all knew if either side did not care to have me hear this case, they were free to tell me, and I got another judge. I don't think it is necessary to take changes of venue. If you have a case in your county that you don't want the judge to pass on, for the reason, perhaps, that you know his views or something like that, I think if you would tell the judge you would like for him to call in somebody else, he would call in a judge from the next county to hear it.

Mr. MIGHELL (Kane). Isn't it a fact that there are some counties of the state that have no lawyers, and isn't it a further fact that there are a number of counties where they have no lawyer who would be qualified to serve in a general way, as you would require of a judge of your superior court?

JUDGE HADLEY. I don't know of a county in the State that hasn't lawyers in it. If there is a county in the State in which there are no residence lawyers, then that county ought to be annexed to some other county.

CHAIRMAN DEYOUNG. Anything further, gentlemen? If not, I am certain the committee is much obliged to Judge Hadley.

JUDGE HADLEY. Thank you, gentlemen. (Applause.)

CHAIRMAN DEYOUNG. We also have with us, gentlemen of the committee, Mr. F. K. Lemon, of Clinton, Illinois, and I am certain the members of the committee will be very glad to hear from Mr. Lemon.

Mr. LEMON. Mr. Chairman, Gentlemen of the Convention: I feel somewhat embarrassed in the presence of so many good lawyers and so many able gentlemen from Illinois in making suggestions to you, particularly after the addresses by the different members and by Mr. Craig and Judge Hadley.

The questions at stake seem to be pretty thoroughly threshed out, so I will take but a very few minutes of your time.

Like Mr. Craig, I believe largely in the established order. Perhaps because I am not very familiar with any other order of court business; but any system that has shown that it works well so far as the system is concerned, it seems to me should be changed with great reluctance, and not until measures are shown to be better by practical demonstration.

I have no doubt that the people will approve whatever Constitution this body of men in its wisdom sees fit to promulgate. In other words, the people elected you and they have confidence in you. Of course, there must be a campaign when it is submitted to the people, and contrary to general custom, or to general report, the dear people don't turn out. You have to grab them and pull them out, and it costs thousands and thousands of dollars to do that thing, as anyone who has had experience in campaigns, as you men have had, will say and well knows.

For that reason, the first change I would suggest in the present order would be to make the election of circuit judges come at the same time as the general election. Of course, the election was made in June for the reason it was supposed that it would remove that matter from politics. It does not. There is just as much politics in a judicial election most of the time as there is in any other election, only it falls on a few judges and a few of their friends to pay the expenses. All these things could be better handled and all people would be better satisfied if we had fewer elections and elected practically all the officers at one time. In this connection I

have noticed, as you have noticed, after a general election the newspapers will report that the people turned out well; that there was practically a full vote out at the general election, but bear it in mind that the people did not turn out. Vast organizations and vast sums of money were spent in bringing them out. Consequently it is to the interest of all of us, when people have to drop their business and go to elections, it is to the interest of everybody to have as few as possible, and to elect our elective officers at the same time.

I would like, however, to see the justice court abolished, but it is hardly worth while for one to criticise something unless he has some constructive suggestion to put in its place.

I haven't any constructive suggestion, but the reason for desiring to see the justice court abolished is from the fact that there is practically no justice in it.

As said by Mr. Craig—Mr. Craig is a man of large experience in practicing law, as large, I expect, as any man in Illinois—in the rural communities there are practically no cases before justices of the peace, and in some townships the people don't know whether they have elected any or whether they have not.

I come from one of the smallest counties in the State. The county has perhaps 20,000 inhabitants. The City of Clinton has perhaps a third of that number of people. There is one justice of the peace in the City of Clinton who is reasonably busy, and I expect there is not a half dozen justice of the peace cases started before all the other justices of the peace in the county. That situation may not obtain everywhere else, but from what the other speakers have said, and from my observation generally, I believe that in rural communities it obtains pretty well, and of course if they had a sort of a municipal court that you could get a lawyer to preside over, it would be a better plan. For instance, in our county it would be better, because suits are started there anyhow, and on the question of law involved, we would have the judgment of a person who has been trained and who has passed an examination and should be somewhat qualified for the position.

The probate court, or the county court, inasmuch as it is a probate court, I would like to see retained. It is a court that is very close to the people, particularly in the ordinary counties. That court has charge of the delinquency matters and families come in and confer with the county judges on all those things, and he is a pretty busy individual.

In all the counties I know of, the drainage assessment cases come before the county court exclusively, also the special assessments in cities. All the revenue matters are tried out before him. Of course, all the probate matters, with the multitude of things that come up in the probate court in relation to probate of wills, administration of estates and settling accounts and contested claims and even more than I have mentioned, come before the probate court, and it seems to me that it could hardly be done away with.

Of course, as far as the county court part of its business is concerned, it has practically nothing to do in most of the counties, and that part of it could be well abolished. The suggestion made in regard to having one judge in each county handle all of the business would be simply ruinous to the small counties, in my judgment. Where the judicial districts are made up of each separate county, the county must stand the expense of its own court. That would be at least my idea. And the board of supervisors who would provide this salary would provide such a salary that no lawyer in active practice would want to take the position, and you can see what we in small counties would have to suffer as a consequence. In small counties, the active practitioner, the man who is regarded, for instance, as the best lawyer, if he becomes a candidate for judge, another man becomes a candidate against him who has spent more time in hand-shaking than he has in trying lawsuits and coming in actual conflict with witnesses and with litigants, and to some extent with jurors, and the hand-shaker will win —and he may be a fair probate lawyer; and so with our circuit courts, the first thing, the thing uppermost, it seems to me, is to give the people

what they need. Of course, that is uppermost in your mind, it must be uppermost, in any measure that is proposed. The thing that people demand now in everything is speed and accuracy.

Our circuit courts are institutions that have been in this State for many, many years. Every man, woman or child, who knows or has heard anything about a court knows in a general way what the circuit court is. We must have a court with general, chancery, common law and criminal jurisdiction, that is, a court where one can commence any kind of a suit, from a dollar to a million, or from a horse trade, as they say, to a partition of the largest estate, and that is the court that we have now.

If I were going to suggest something in relation to the circuit court, it would be more a matter of legislation than constitution, and it would be this: That no county have less than three terms per year, no difference how small the circuit, and that most of the counties have four terms per year.

The point is this: The benefit to people from the courts is not the lawsuits tried in them, but it is the differences of opinion between the people that never see the courts, the fact that they may transact business, that they may have their differences and they know that they can secure redress for injuries in the courts. Consequently they don't go into the courts. The man who has bought ten thousand dollars' worth of merchandise from the other man pays the ten thousand dollars, because he could go into court and recover that ten thousand dollars if the fellow didn't pay him. That is where the great benefit from the courts comes to the people in general. Now, if it was just a little more beneficial in this regard, so that when a person had a cause of action against another, there is a court open for the purpose of litigating that matter, it will stop lots of litigation. We know when courts get congested that people who have good causes of action against others settle the causes of action at a great discount because the courts are not open or they are behind in the docket, or they have few terms of court each year in that county, or they only have two terms of Appellate court a year, and if a man wanted to take an appeal he could delay it a year or two. I think that that is the thing that we might bend our energies to assist. It would take more judges, but the State of Illinois has been growing; it is growing every day; it is one of the largest States in the Union. We can make our judiciary no better, no more efficient, no quicker by merely changing the system. We have to have men, in my judgment, to do the work, if the work is there, which it undoubtedly is. That means an enlargement of the system I would say. For instance, if every county in the State, no difference how small, had three terms of court a year, they may not last a week, but the opportunity would be there to commence the lawsuits if a person had a cause of action or a grievance against his neighbor. Then if you elected four judges instead of three to the circuit courts as they are now established, and withdrew one of those judges to hold Appellate court, you will have no more judges of the Appellate Court than you have now, and we will have three judges to hold the circuit court instead of two. The judge we have on the Appellate Court does all he can and holds some circuit court too, but I don't see how he does it, he has so much to do, and those are knotty problems that are put before the Appellate Court; they deserve serious consideration and it takes quite a lot of time. If they would withdraw by legislation one of those judges to hold Appellate Court, that person would be there all the time, leaving the three judges in the circuit to transact the business there.

There is another thing. The reason for courts of review, as I see it, is to have the opinion of no one person as to whether there is substantial error in the record, but is to get the opinion of a body of persons. Now, if our Appellate Court is so constituted—which is now impossible because of pressure of business—that it can sit down in the conference room, all three of the judges, go over all the records in the cases together discuss and decide them and note that decision in their adgenda dockets, and then assign it to one of the judges to write the opinion—not write that judge's decision,

but write the opinion of the three—then we have received what was intended to be given us by a court of review.

For that reason, I think nine judges of the Supreme Court would be entirely inadequate. I notice in some of the states where they have not a Constitutional Convention authorized to increase the number of judges of the Supreme Court, they have by legislation made Supreme Court commissioners. In Missouri they have six—seven judges of the Supreme Court and six Supreme Court commissioners. Of course, those commissioners haven't the power to decide lawsuits, because the Constitution reposes that power in the Supreme Court, but they meet and they hear these causes, and, we will say, Commissioner Brown writes an opinion deciding a case and decides it according to the judgment of this commission, and per curiam the decision of Brown is adopted as the decision of the Supreme Court. That makes the Supreme Court decide it. They have thirteen judges of the Supreme Court in that state. They have three Appellate Courts in that state. Missouri is not so large or wealthy as Illinois. Texas, not nearly so populous or wealthy as Illinois, has three judges of the Supreme Court and six Supreme Court commissioners, and three judges of the court of criminal appeals, which is the Supreme Court for criminal cases. There are twelve judges thus, of the Supreme Court and nine Appellate Courts for Texas. I don't know how they get along, but I presume business has increased and they have to do it, but we cannot expect our Supreme Court with three or four hundred cases each term to be able to sit around a conference table when a case is brought up and read together and consider together the briefs and abstracts and records of the cases. It cannot be done, men; I believe it is physically impossible, because figuring at that rate each judge would have to decide a case and write the opinion in one case about every three days, Sundays included, which would give no time for conference. It seems to me that it might be remedied—I don't say this is a good suggestion, but it is just a suggestion—by doubling the Supreme Court, having fourteen members. We have now, for instance, a term in February, in April, in June, and in October. We would have one branch to hear cases on that schedule and another branch to hear cases in January, March, May and November. Then there would be some chance; it would split the cases in two that the bench of seven would have to decide, and there would be some opportunity for the full bench of seven to consider those cases. How they do it now, I don't know.

I thank you, gentlemen. (Applause.)

CHAIRMAN DEYOUNG. Any questions, gentlemen? The committee is obliged to Mr. Lemon for coming to us and giving us his views. There were a number of judges who were invited to appear today, but from all of those who expressed a wish to be present, in fact said they would be here, I received a communication that because of work or some other reason they could not be here today, and hence it is that those who were invited to appear, other than the three gentlemen who have spoken, have not come.

If the committee desires to hear from members of the Convention now, why the opportunity will be afforded. If not, I might make this suggestion before we proceed to members of the committee; I mean not only members of the Judicial committee but members of the Committee of the Whole: If they are acquainted with any lawyers, judges or other persons in their respective districts that desire to make any suggestions to the Committee on Judicial Department, those suggestions will be welcomed, preferably, of course, in person, but if they find it inconvenient to come personally, we will be very glad to receive them in writing. The Committee on Judicial Department will also welcome suggestions from bar associations of the several counties of the State. Every bar association may prefer to have representatives in person, and arrangements will be made to give them a hearing at a time when it is convenient to such representatives. If they don't care to be here in person, we likewise invite their suggestions in writing, to the end that the Committee on Judicial Department may take this work up. The task which we have to perform, gentlemen, is a difficult one, a task on which there is no uniformity of opinion, and as we have already discovered, a

great diversity of opinion. If there are members of the Committee of the Whole who desire to be heard now, the opportunity is afforded.

Mr. HAMILL (Cook). Mr. Chairman, I move that the committee now rise and report progress.

Mr. MILLS (Macon). Mr. Chairman, I move you that a vote of thanks be extended to those who have been here in presenting their views.

CHAIRMAN DeYOUNG. The delegate from Macon, Mr. Mills, moves that a vote of thanks be extended to Judge Craig, Judge Hadley, and Mr. Lemon.

(Motion prevailed.)

CHAIRMAN DeYOUNG. Mr. Hamill, have you a motion?

Mr. HAMILL (Cook). I renew my motion.

CHAIRMAN DeYOUNG. The motion is that the committee rise and report progress. Any suggestions?

(Motion prevailed.)

Mr. DeYOUNG (Cook). It is suggested that we had better include in the motion that was adopted to rise and report progress, that the committee be permitted to sit again at such time as may be fixed by the Convention. That does not necessarily mean that it would be confined to matters which the Committee on Judicial Department has under consideration. If there is no objection before making report to the Convention, the chair will include that in the report. Hearing no objection, that report will be made.

PRESIDENT WOODWARD. The delegate from Cook, Mr. DeYoung.

Mr. DeYOUNG (Cook). The Committee of the Whole having had under consideration Proposal 166, begs leave to report that it has made progress and asks leave to sit again.

PRESIDENT WOODWARD. The question is upon the request of the chairman of the Committee of the Whole.

(Motion prevailed.)

PRESIDENT WOODWARD. Is there any further business to come before the Convention? If not, a motion to adjourn will be in order.

Mr. GREEN (Champaign). Mr. President, I move that we adjourn.

PRESIDENT WOODWARD. The question is upon the motion to adjourn.

Mr. CUTTING (Cook). Is it to ten o'clock? I understand we adopted a resolution here that when we did adjourn, we would adjourn until next Wednesday.

PRESIDENT WOODWARD. The motion adopted this morning, Mr. Cutting, was that when we adjourned this week, we would adjourn until next Wednesday.

Mr. CUTTING (Cook). Very well.

(Motion prevailed and adjournment taken until Thursday, February 19th, 1920, at 10 o'clock a. m.)

THURSDAY, FEBRUARY 19, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, Father Gilmartin.

THE PRESIDENT. The Journal of Tuesday, February 17, 1920, having been printed and placed on the desks of the delegates on yesterday, is now subject to correction. There being no corrections proposed the Journal of February 17, 1920, will stand approved as printed, and it is so ordered.

Whereupon the Convention proceeded on the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals, motion and resolutions, unfinished business and general orders of the day, all without debate.

THE PRESIDENT. Any further business to come before the session?

Mr. GREEN (Champaign). I move that we adjourn until next Wednesday, in accordance with the resolution adopted yesterday, that because of the election in Chicago that when we adjourned we should adjourn until next Wednesday.

(Motion prevailed.)

THE PRESIDENT. The Convention stands adjourned until next Wednesday at 10 o'clock.

Whereupon an adjournment was taken by the Convention until Wednesday, February 25, A. D. 1920, at 10 o'clock a. m.

WEDNESDAY, FEBRUARY 25, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, the Reverend Lester Leake Riley, Rector of Christ Episcopal Church, Springfield, Illinois.

THE PRESIDENT. The Journal of February 18th, 1920, having been placed on the desks of the delegates on Thursday, February 19th, 1920, is now subject to correction. There being no corrections proposed, the Journal of February 18th, 1920, will stand approved as printed.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, and introduction of Proposals.

(While Proposals were being introduced, the President made the following announcement.)

THE PRESIDENT. Several days ago this Convention extended to the Senators from Illinois an invitation to appear before this Convention and address it upon the subject matter of the work before it. Both Senators accepted the invitation extended to them by this Convention. Both Senators are now present and are ready to address this body. If there is no objection our present order of business will be suspended in order that we may hear from Senators Sherman and McCormick.

The United States Senators come to us with a ripe experience not only in State affairs, but in National affairs. One of them has had experience as a judge, as a member of the General Assembly, as Speaker of the House of Representatives, as Lieutenant Governor, and as an officer in the administrative department of the government. The other has had experience as a writer and as a publicist, and as a member of the General Assembly of this State. From their ripe experience, from their study and reflection upon matters pertaining to constitutions and constitutional law, upon the needs and wants of the people of this State the Senators can greatly aid and assist this body in its deliberations.

It is an honor and a pleasure to present to this body the senior United States Senator from this State, Senator Sherman, who will now address you. (Cheers.)

SENATOR SHERMAN. Gentlemen of the Convention: You are somewhat advanced in your duties, and before long you will begin to put in concrete form on paper the proposal for the revision or the substitute for the present organic act of this State. I will have but a few specific recommendations to make. It is because a Constitution concerns itself principally with things that are elemental in character. It does not descend into matters of detail which are properly the province of a legislative body. You are charged with the responsibility of preparing and submitting to the qualified voters of this State an organic instrument under which the legislative as well as the other powers of the State shall be exercised. Therefore, your duty is not of a legislative character, but is one that concerns itself with the limitations or restrictions under which the various powers of State government shall be administered and applied. Being of this character it necessarily makes your efforts one of a specific kind. The instrument under which we act at the national capitol was framed by a body of men who concerned themselves with elemental things. They made few experiments in the art of practical government. They contented themselves very largely with taking what had been demonstrated to be successful; what had been evolved from the experience of men that had passed beyond the realms of mere conjecture; it was not a document framed on

theories, but they drew from the established things incidental to successful government. Necessarily in changing any constitutional provisions, which in their very articles or paragraphs will involve some necessary experiments, such experiment so made by the framers of these documents ordinarily confines itself to such as incur a minimum of risk with a maximum of remedy. These are wise restrictions on the action of any body of men charged with such responsibility. I do not look upon State government as an experiment station. I look on it as something designed to protect the majority of the people, and a very large majority, who are pursuing their lawful occupations in private life, and State government, or the purpose of all powers which it exercises is for the purpose of protecting those engaged in those private pursuits. They consequently must regulate some in order that others may be protected, but the regulations are along established lines and in pursuance of well ascertained and wholesome principles that on experience have been found necessary to the end in view and they have been adopted as the means. A Constitution therefore becomes a body of elemental rules and maxims under and pursuant to which the powers of government are exercised. It does not undertake to frame a code of law. That is the purpose of statutes enacted by legislatures within the powers and limitations of that instrument. It is both a safeguard and a guide. It does not undertake to forge the mechanism for legislative, executive or judicial action in specific instances or classes of like cases. It contents itself by declaring in general terms principles capable of application by sane construction to changed or changeable conditions under the powers or limitations attending the habitual exercise of regulated sovereignty. We proceed always along well established lines. A document of this character does not create rights which it protects. The rights which you deal with and seek to protect, or to regulate pre-exist under the laws of nature or the indissoluble relations that inhere in and subsist among all organized civilized peoples. These rights all existed prior to the formation even of the first State Constitution. Not in so elaborate a form as they are at present because life was less complex then. All that a Constitution can do, therefore, is to recognize and declare such rights and build barriers against their violation or destruction. The use of the Constitution is to furnish a certain document to which all public officers may resort to discover the limitations upon their duties and the universal rules under which they may execute them. A State Constitution is essentially a document not of grants but of limitation upon powers. Except as restraints may be imposed upon the State government by the grants or prohibitions of the Federal Constitution, the limitations of the State Constitution or the segregation of power in some other department of the State, a State legislature possessed the theoretical omnipotence of the British parliament. A State Constitution ought not to be a document merely of repression. It must permit a sufficient flexibility by a sane construction of the spirit of the text to embrace conditions hereafter arising but related and similar to those now existing and known and made by you subjects of Constitutional action. Such principles are flexible, while mere statutes are rigid but repealable. With this view of the document you are called upon to create, it is evident that the more the principle can be announced in compact and certain words or phrases the nearer it approaches the qualities demanded of such a charter.

Words are presumed always to be employed in their natural and ordinary sense but they are to be construed and illuminated in the light of many preceding constitutional documents, decisions and laws. Certain phrases have stamped upon them, even in popular understanding, a fixed significance. Without being entirely technical such words in interpretation are flexible, accurate and practical. Wherever possible such words or phrases ought to be adopted in expressing a broad principle of constitutional declaration. Some of those expressions possess a significance gained from more than seven hundred years of use in the affairs of men and the development of nations. Wherever technical words are used they are presumed to carry with them that technical meaning and in no case,

whether technical or otherwise is construction resorted to to import into the Constitution powers not found there or to create new limitations unless the same be fairly implied from the general expressions of the text. The same words in a new Constitution found in an old Constitution will be presumed to carry with them the same meaning when lodged in the new document. In many instances courts have announced, and it is the rule of common sense as well, that the certainty of a rule is often as valuable as its justice at the time of the original making thereof.

Therefore, for any new rule to be made by constitutional declaration, the certainty of its making when once settled upon will be of as much significance as the original justice of the rule which will appeal to you in the original making, and once adopted its certainty possesses essential value.

The universal tendency following on all war periods is over centralization, and to substitute a rule of unbridled official discretion for the wholesome rule of written law. The invariable result is a vast concentration or centralizing of power and a corresponding absorption of local rights in the process. This furnishes a powerful reason for the reserved rights of the states to be vigorously asserted, not only where they are proceeding under present constitutions, but especially where they are in the process of Constitution making. These rights ought to be vigorously asserted, well defined and completely administered through the departments of State government.

The bane of modern legislation is class or group exemptions. Persisted in it inevitably destroys free government. It makes no difference to what such group legislation applies. At times in the past corporations may have acquired undue power in certain lines by the country's indifference or lack of knowledge. The public has corrected this through its proper processes. There is even more danger now of proceeding to the opposite extreme than otherwise. Combinations of persons to promote their own welfare against all the rest of the community are more dangerous than corporate influence ever was. Against the older evil it was easy to arouse public sentiment. Against the latter it is correspondingly difficult, because it is always more difficult to distinguish sharply where numbers are involved than where simply property rights are involved. Its peril lies in the large voting power wielded for those who will favor continuing and extending class or group legislation, and the difficulty of arousing a sufficiently large number against it. Naturally Congress is the most open to assault on this subject. It is, for the most part, confined to the enactment of statutes more or less temporary in character and always subject to repeal. Hence the pressure to secure advantage operates in a fertile field. Such measures are not of the permanent character of Constitutional articles. The changes made in the latter are properly more difficult and require more time and corresponding public attention and enlightenment.

Statutes because they can be made today and repealed tomorrow are peculiarly subject to class or group influence.

I belong to that class of minds that believes the government should never undertake to administer any industry that can as well be administered by private individuals. All things being equal I myself would decide in favor of leaving it in private hands, rather than putting it under government control. Necessarily, the greater the undertakings of the government, the greater the burdens attending the operation, the greater the expense, the heavier the tax remaining on private property until near a certain point in government operation and ownership is reached the tax on the remaining property in private hands becomes so burdensome as to be confiscation, and therefore private property becomes impossible. The pressure must be resisted. A Constitution in its writing imports by its terms stability. It is designed to build up barriers against sudden or capricious changes. It protects the great elementary rights of persons. It secures helpless minorities from injustice and abuse at the hands of majorities. It throws about the right of free speech and a free press irrepealable provisions not subject to popular excitement or the transient clamors of multi-

tudes. It puts the great property rights which are secondary to personal rights but essential to a well ordered State under Constitutional protection. Confiscation, the exercise of eminent domain and the mighty taxing powers incident to sovereignty are all prohibited, restrained and directed by Constitutions. Such articles must therefore not be transient, but possess the elements of permanence and of guaranteed stability.

An English historian writing says that the greatest struggle in the Anglo-Saxon race has been to protect the rights of minorities against an intolerant and lawless majority. On those elemental subjects the judiciary is constantly required to decide. The constitutionality of bills enacted, the limitations upon the power of both legislatures and other public authorities are habitually brought before the courts for final settlement, construction and application. Some of these decisions necessarily relate to the government of the State. Those affecting private individual rights alone do not become a matter of general discussion. Where, however, proposed statutes alleged by their supporters to be remedial in character are prohibited by Constitutional limitations, or where the great mandatory or protective writs of courts of general jurisdiction are invoked for the prevention of irreparable injuries involving the conduct of large numbers of persons acting in concert for common ends, the court itself is often assailed. The court does not sit to frame Constitutions, to enact statutes, or to declare upon the public policy of the commonwealth. Its sole jurisdiction and power is to expound and apply existing laws. In given cases decisions become precedents which reach far among law abiding peoples. It is the greatest of the inventions of civilized mankind to adjust controversies so necessary to the peace and safety of society. It is indispensable that the court be protected in its decisions. If the laws, organic or statutory, ought to be changed the appeal is to the people or to a regularly elected legislature; not an attack upon the court, threatening it with destruction for performing its duty. Such a process is revolutionary in character and subversive of republican government. The amendments of Constitutions by legislative enactment, by executive orders, or by judicial construction is equally destructive of a rule of law. The processes for a change of statutes or a revision or amendment of Constitutions are plainly indicated. To depart from them is to habituate a free people at last to forge the instruments of their own servitude.

The foregoing observations apply to the proposal to substitute a recall of judges and of judicial decision to procure a reversal of unpopular cases. A limitation upon the powers of the legislature or dispensing with their services altogether except of the most formal kind by the initiative and referendum produces a dissolution and thaw that can result in nothing but habitual confusion and ultimate chaos, if it be effective for any purpose.

Upon vital and elementary subjects which the public take to be of sufficient importance to consider and inform themselves, no objection can be made to referring such measures before becoming operative to a popular vote. Where, however, it is to be an indiscriminate vote upon every legislative subject technical and otherwise, appropriations, tax levies and revenue matters in statutory detail it would lead to great disorder and a menace to any stable rule or settled conditions. Elections are sufficiently frequent at present. They take enough of the successful man's time. The unsuccessful person is already sufficiently in evidence to give him an adequate importance in public matters. An increase of election days or of subjects submitted would not result in a rule of the people. It would produce more class or group government of an active persistent minority than wise regulations for the entire people.

A pure democracy is not found in either American state or national government. Such a government is the unrestrained rule ostensibly of a majority of the people, in reality often a mere plurality in practice. A majority is a pure democracy. It may lay down a given rule of conduct this year and reverse it next year. It may prohibit an act today and command it tomorrow. There is no limitation upon the laws a pure democracy may make. It is omnipotent in government and knows no restraint nor regula-

tion in its rules affecting person, property, liberty of speech, press or conscience.

A republic is a government created by the people but subject to limitations upon its own powers. It is sharply distinguished from a pure democracy by restraints upon popular governmental omnipotence. Arbitrary power exercised by a king may be no more arbitrary than the power of a multitude. Either or both may be capricious and violent. A republic takes into account human experience. It acts in the light of historical development and is ever heedful of the unchangeable traits and natures of men. A republic invented constitutional limitations. Constitutions in every age have been devised by the governed, be they under pure democracies, republics or monarchies, for the protection of the ruled against the rulers, whether arbitrary popular majorities or of crowned despotisms. They inhibited both monarchs and people from exercising public power unless under wise restraints found universally necessary for public peace and private security. The English speaking race has developed those Constitutional restraints in the most practical forms known today and with the Netherlands their governments have led the way in Constitutional government.

The experience of centuries has developed certain necessary restraints upon the powers of government in the hands of agents. The Bill of Rights is an elemental statement of such restraints. Its paragraphs, to the Constitutional student, blaze with the struggles against absolute power in the hands of either king or popular majorities. Its great headlands reared against the rushing tide of arbitrary power are echoes from the battlefield and the great theaters of parliamentary struggles. Its language has been formulated and tested in great historic landmarks of litigation and accurate definitions made in the application to public and private affairs. A limited monarchy such as the United Kingdom of Great Britain provides Constitutional safeguards beyond which the king may not go. It is true parliament is omnipotent. This power now is practically in the House of Commons, but even it feels itself bound by these great elemental breakwaters in Bills of Rights, judicial decisions, ancient charters and signs written in the footsteps of fugitive exiled monarchs and beheaded kings. In effect it is a republic operating under fixed but unwritten constitutional limitations. Our governments, State and national, in like manner are republics with written Constitutions limiting the powers of government in the hands of public authority. They have drawn from and gathered liberally from the constitutional documents of the Netherlands, the United Kingdom and of classic antiquity. Even popular power must be exercised in accordance with the salutary limitations and methods of operating the various powers incident to government. There is no stability nor justice unless such restraints are perpetuated and observed.

I shall do no more here than note the elemental difference in the Federal Constitution and our State Constitution. The Federal government is a composite creation of popular power and the numerical aggregated local strength of the forty-eight States. Population is represented in the House of Representatives. The jealous preservation of the State as a constituent unit of Federal government is lodged in the Senate. No State without its consent shall be deprived of its equal suffrage in the Senate. This Constitutional equality in Article V is unamendable, three-fourths of the States and 99/100 of the population could not by Constitutional amendment even deprive the smallest State in the Union of its two Senators in the upper house of Congress. If such equal suffrage should be destroyed it would be a purely revolutionary act by a pure democracy or an arbitrary despot. If peaceable it would be no less revolutionary than if accomplished by the sword. Such a provision induced the ratification of the Constitution by the required number of States. This secured to the small State its indestructibility and equal voice not only in legislation but in the making of treaties, the confirmation of nominations to office by the Executive and the trial of all impeachment cases. The States yielded to the government so established, enumerated powers of general national concern and our relations both in peace and war with the foreign countries.

It is therefore strictly a government of enumerated powers or those that are necessarily implied requisite for the execution of the granted powers. All else remains in the State so that its equal suffrage in the Senate and the great mass of reserved or residuary powers constitute an essential and peculiar feature of the American State. Among the first Federal amendments adopted was a precautionary article explicitly defining such reserved powers in Article X, viz:

"the powers not delegated to the United States by the Constitution nor prohibited by it to the State are reserved to the States respectively, or to the people."

The people referred to in this Article are not the people of the United States but the people of the several States, being the population having a legal residence within the territorial borders thereof.

The State, therefore, exercises sovereign power in all matters not granted away or prohibited to it by the Federal Constitution. It is to those great local powers inherent in Illinois that your Convention addresses itself in framing an organic instrument. There has not been a period in our country's history when State government met a greater emergency requiring its unceasing vigilance and wise exercise of such powers. I believe, and it is a part of my creed, that the State should retain such powers, that a better citizen is made by the exercise of the rights of local government as a training ground and for the better administration in the affairs immediately concerning the local reserved powers of the State.

There is an overwhelming tendency in Washington to centralize and absorb all the powers lawfully inherent in the State. Some of the smaller States tacitly acquiesce in the usurpation. The government comes with enticing appropriations in its hand. It proposes to take charge in a most paternal way of the various activities of the State. Education, the public health, agriculture, penal, reformatory, scientific affairs, the arts, sciences, commerce, manufacture, the management of the home, advice on multitudinous subjects are all tendered apparently free. It has assumed the custody of all noxious insects that infest or prey upon man, beast and the entire vegetable kingdom. It undertakes every form of activity from investigating sheep dip to guarding against every form of human disease. The appropriations are anodynes to lull the State into inactivity and repose. The pleasing belief is generated that State taxes will be thereby lighter. It's easier in time of trouble to pass the burden on to the government. Certain States show an increasing tendency to unload their local responsibilities on Washington. If it should become general, a centralized Federal government is not far distant. Against this manifest drift the State must arouse itself. It must administer with vigor and efficiency its reserved powers. It must cease sending to Washington for help in every emergency from local riots to Japanese beetles.

Illinois is able to take care of and does take care of itself in all such State affairs. You now face the duty of revising the organic instrument under which all those powers are habitually exercised. First the Bill of Rights must lead the way. There is not one of its mighty guarantees that can be obliterated. It gathers the wholesome results of human government translated from the popular will by the intelligent thought of our ancestors and regulated so as to be exercised in the established channels of orderly sane procedure. It inhibits both king and mob from ruling our affairs. There is no essential difference in the results. Both must rule under the law and not mere discretion or force. The charters of the Dutch republic and the United Kingdom of Great Britain to remote times have been drawn on to create our Constitution. Any weakening of an essential clause or paragraph of the Bill of Rights would be an assault upon the safeguards of civil liberty and free State government.

The reserved governmental power of the State in administration is found wisely to be divided into three great branches. On this there will be no controversy. Experience has demonstrated the necessity of that division. Legislative and judicial powers were in early times found to be a menace when united in the same body. The calm administration of jus-

tice was necessarily involved in the violence of party faction which inevitably attended legislation by representative bodies. It ceased to administer justice and pronounced decrees of alternate confiscation, exile and death as majorities rose and fell. The judiciary was therefore separated from the legislature. Judges were given longer tenure of office. Judicial powers were made exclusive and their exercise secure from invasion. No department of civilized government is so highly essential to a free people. Its judges are without patronage. They do not mingle in partisan frays. They expound and apply the laws of the State and are not concerned in their enactment. It is their sole power to see that the legislative department enacts its measures in accordance with Constitutional requirements and apply the law of the land in given cases before them. The justice of their decisions find their only political strength in the moral support and respect in the body of the electorate and the people of Illinois. Justice should not be too far removed from those among whom it is administered. A knowledge of judicial tribunals local in character and convenient of access ought to continue with promptness and dispatch. The judicial instrumentalities outside of the larger cities and metropolitan centers are much simpler and answer the ends of justice as well as more complex systems in crowded centers of population. In the latter greater numbers and more elaborate judicial mechanism become necessary.

The execution of the laws constitute a distinct branch of public undertaking. The executive has come to us from early times. That officer and his various departments are concerned in the administration and execution of the law, the preservation of the public peace and order, quarantine, police regulation, and the various heads of departments provided recently by your General Assembly. Executive power ought to be well defined and secure from interference by the other branches of the State government. The executive duties cover a well understood and generally known territory. But little difficulty will be found in considering such matters. His power to nominate appointive officers, to remove, the prerogative power to pardon, commute and reprieve, and his headship of the military and naval forces of the State cannot arouse serious controversy. His veto power ought to be continued as well as power to approve legislation with the usual passage over the veto by a vote in excess of a mere majority. The executive power to veto one or more of the items or sections of an appropriation bill, I believe to be justified in practice. My observation in revenue matters and on appropriation bills in Congress leads me to the conclusion that it would be of sound utility if the President had and used a similar power. It would enable him to purge many an appropriation bill of vicious sums and still more vicious logrolling and combinations, which, standing singly, could not command dangerous strength.

It is a most salutary power to provide, as in the present Constitution, that in case of the disability, death or conviction on impeachment, absence from the State or other disability of the Governor, the powers and duties of that office shall be devolved upon the Lieutenant-Governor, either for the residue of the term or until the disability shall cease. This provides an elastic and very practical method of providing for an executive head in ordinary absences, casual events or emergencies. It does not remove the Governor after he shall have again qualified during the remainder of his four years. A similar section in the Federal Constitution relating to the disability of the President would be most useful. Section II of Article II on this subject in the Federal Constitution could have been improved in its substance as well as wording. It provides:

> "In case of the removal of the President from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the Vice President, and the Congress may by law provide for the case of removal, death, resignation or inability both of the President and the Vice President, declaring what officer shall then act as President, and such officer shall act accordingly until the disability be removed or a President shall be elected."

Congress has, pursuant to this power, enacted a Presidential succession law declaring after the President and Vice President, members of the Cabinet shall in a certain rank named become acting President. No provision has been made, it seems, for the temporary disability of the President. The Vice President can become President or acting President only upon the death, resignation or inability to discharge the powers and duties of the office. If the inability be long continued and complete so long as life endures there seems to be a lack of Constitutional temporary assumption of executive powers by the Vice President. This might lead to very grave difficulties. The power to determine when the inability exists is uncertain. Long continued physical inability, or lack of mental powers might lead to an executive interregnum in fact, productive of alarming consequences. It is an open question whether Congress possesses Constitutional power to provide a method or tribunal to determine when such inability exists. It is equally open to question whether if the Vice President once assumed the powers and duties they could be divested from him and revested in the President when such inability in his person should cease to exist. It therefore ought to be the concern of your Convention to continue such a provision in our present Constitution and about it very likely there will be little difference.

The legislative department is of the utmost concern. It is responsive to public opinion and susceptible to the pressure of prejudice and organized crusades. Somebody that has address enough to carry about a petition and obtain enough money to pay office rent and employ a clerk can assume formidable proportions. They speak for the people with great unanimity and vociferous unction. The more numerous house of the General Assembly must, like the National House of Representatives, pass through the ballot box every two years. This seems to be settled upon in many places as the period fixed to invoke the popular will. The State senate, a smaller body but longer term of office with only a fixed proportion elected every two years, leaving the remaining as holdovers, serves a stabilizing purpose. As the source of all statutory enactments as well as tax laws and appropriations it is well enough to have some members of one body at least who may take a more impartial view than can be had by an appeal to temporary excitement. Such provisions are based upon long experience and wise precaution against precipitate action. After nearly forty years experience and twenty-six years of holding elective office the most amazing fact to me is the ephemeral character of so many alleged vital questions on which excited gentlemen demand instant compliance with their views or a premature retirement from the public service.

Nothing but the elemental survives the whips and scorns of time.

The qualifications and area unit of elections for members of the General Assembly are matters of detail. Likewise are the time of meeting and length of session together with adjournment, the taking of yeas and nays and the right of protest. The mandatory provisions for taking the yeas and nays and preserving it in the journal I believe a vital process of legislation. Matters of great magnitude otherwise might not have the responsibility fixed nor due caution inspired. Congress legislates in matters of highest significance and appropriates hundreds of millions of dollars without a roll call. Although the bill is usually well understood and digested by committee action still it becomes the potential source of vast mischief. No State Constitution ought to permit the passage of a bill without the yeas and nays preserved in the journal of each House. I believe it wise to require the affirmative vote of a majority of the members elected to each House to bass a bill. A mere majority of a quorum is sufficient in Congress. It does not safeguard representative government sufficiently, particularly in money bills. It is prudent to have every bill read at large on three different days in each House. It is a security against hasty and sometimes inspired and dangerous legislation. Equally binding ought to be the limitation of one subject in a bill, to be fairly expressed in the title. In Congress, legislation having no relation to the bill's title is habitually inserted. Foreign matter of the most diverse character and general national legisla-

tion is attached to an appropriation bill. Any limitations on the abuse are mere parliamentary rules subject to change at pleasure or easily avoided by frequent unanimous consent. Conference committees until recently possessed more power of legislation than both houses of Congress. They could insert anything in a conference report. A rule has been lately adopted that extraneous matter not before considered by either house cannot be so introduced.

Since the 1870 Constitution was written large municipalities have grown up, especially Chicago. Every municipality within a State is a child of its sovereignty. Customs, however, as well as effective service, regards many municipal powers as of local concern only. Still the rule remains that the State is sovereign. If it consent to yield its supremacy by Constitutional grant it is voluntary and a matter of sound discretion with the Convention that drafts and the people that ratify a Constitution.

From about 300,000 fifty years ago, Chicago now contains approximately 3,000,000 people. Special legislation is prohibited in section 22 of Article LII upon enumerated subjects. Some may be profitably continued. It is imperative that others be relaxed, so that special legislation may be had for metropolitan areas essentially different from elsewhere. Where special legislation is required latitude must be given in the Constitution to the legislature so to limit that class of measures to the area requiring it. This power must be plenary in character and sufficiently broad to supply the remedy for future development and remove all possible doubt of its validity.

The revenue limitations as well as enumerated powers are to you of grave concern. Restrictions upon indebtedness are based upon sound reasons confirmed by long experience and unlimited power to incur obligations to be paid by future generations is the prolific source of more government ills and perversion of taxes than any other sovereign power of the State. Such abuses have caused half the wars of the English speaking world. The debt making power ought to require provisions for the discharge of both principal and interest within a limited time in the same act that creates the indebtedness. Revenues when provided, either by tax levies or the debt making power ought to be rigidly guarded in the manner of taking from the treasury. No funds ought to be possible to be diverted from the appropriations for one purpose to any other. No public officer ought to be permitted to contract an indebtedness unless covered by an appropriation previously made. The ordinary and contingent expenses of the State government for the period covered by appropriation ought not to be susceptible of increase except for emergency and casualties and then under fixed procedure. Appropriations themselves ought to be by items particularly naming the purpose thereof and when made for one purpose if not expended should be reported as an unexpended balance instead of being carried over to some purpose not contemplated by the legislature. Blanket appropriations are the fruitful mother of waste and high tax. The deficiency appropriations of Congress illustrate the wisdom of the limitations named. Their absence leads to loose departmental estimates, extravagance and unwarranted expenditures. In effect, appropriating money without such safeguards creates such deficits as practically to prohibit Congress from exercising legislative discretion by bringing in many millions of accrued indebtedness without previous appropriation. The service having been rendered or the commodities supplied contractors must be paid and employees supported, leaving congress little choice. The necessary effect is a practical vesting of and the exercise by departments of the money powers which are wisely vested by the people in the hands of their elected representatives.

The last deficiency appropriation bill, that of last week passed Congress, as it came from the House provided for nearly 90 million dollars deficiency. As it left the Senate sub-committee or finally the appropriation committee, there was a reduction of some three million dollars, still leaving a deficiency appropriation of 87 millions of dollars. On that practically Congress had no legislative discussion. There was nothing left for Congress to do but pay the contractor who had furnished the government material and the employees who had rendered the government service. Either that or an injus-

tice to innocent persons would be done. Therefore there was nothing left to do but provide the money.

All revenue legislation heretofore has been general in character. Assessment laws are subject to a like uniformity. It is a matter presented to you for your sound conclusions whether it was possibly just as well to assess and tax property as it now exists in its great variety of forms in this State under general rules of uniformity. It is submitted to you whether classification may not properly be made, whether in the form of a tax levy, and intangible property, credits, money in the bank and the like ought not to be assessed and taxed under a different rule from that of tangible property; it is because in many instances ordinary method of taxation and the rate of taxes applied to such property would entirely exceed the income received from it. Therefore, as the alternative necessary a large part of this property now escapes taxation. In matters of detail it is probably a question of statute; in the granting of power to the General Assembly, it is a question of constitution writing.

New York State has a registry tax for all mortgage secured indebtedness. When that registration tax is paid, when the mortgage is filed for record, it relieves the indebtedness of any future taxation upon that subject, which has promoted the creation and the negotiable character of all forms of mortgage indebtedness; either that or an income tax proportioned to the income received from the investment.

That is a matter of constitutional action afterwards to be worked out by the legislature on the assessment of property and the levying of taxes.

I have taken this time and covered only the general observations. I thank you for the opportunity to have submitted them. To me it is a matter of as grave concern as it is to you. Whatever I have of rights of person or of property are in this State. I shall continue to live here as a citizen and taxpayer the remainder of my days. We are interested in the future welfare of the State, its charter, its great organic instrument to exercise those reserve powers; the justice and wisdom of its provisions depend first upon constitutional limitations, upon possible power and government in the hands of agents, and it begins with bodies of this character. May the favor of providence go with you to the end in your labors, and may they all be crowned with success. Afterwards when it is submitted to the people it must pass through the various stages of their approval, and I hope they may wisely choose. (Applause.)

THE PRESIDENT. I now have the pleasure and the honor of presenting to this body the junior United States Senator from this State, Senator McCormick. (Cheers.)

SENATOR McCORMICK. Mr. President and gentlemen of the Convention: The task which devolves upon the Convention is so grave, and the field of its labors is so large, that any address upon the problem before you must be within sharp limits; else it would purport to be a thesis upon government. The senior Senator has very clearly outlined the accepted character of written constitutions in democratic and republican governments. The incorporation of the Bill of Rights in our fundamental law is indisputable. The protection of property and person, of free speech, free assembly, and free election, would seem a matter beyond discussion. It is almost fantastic to know that there are persons who pretend to understand America, its traditions and its purposes, who gravely agitate other views. Happily, they are more articulate than they are numerous, or seriously regarded. There are others who hold no such revolutionary philosophy, but who preach a counsel of academic perfection and who prefer a new and legalistic symmetry to existing forms, invaluable because of familiarity, custom, long use, and accumulated judicial interpretation. Doubtless, gentlemen, you intend to preserve in form as well as in substance, all of our present Constitution which does not make for costly government and waste; which does not hinder the development of the State and its people, and does not thwart or unreasonably delay the fulfillment of considered public policies. There is no general demand for the abandonment of long-cherished and fundamental principles, nor for the adoption of untried innovations. It

was the increase in the population of the State, the growing complexity of its industrial life, the aggregation of population in the metropolis and other thriving and fast-growing centers; it was the modern differentiation of the kinds of property; it was all these which, with the inelastic character of the present Constitution, combined to induce the calling of a Convention. There was a demand not so much to revise, as rather, to amend the Constitution, in a degree impossible under the too drastic restrictions adopted by the Convention of 1870.

The character of the amendments very naturally falls into three classes; first, that of those which are highly controversial, proposed and opposed with equal heat; the second is common to any task of codification or constitutional revision, and includes, doubtless, a considerable number of changes, minor and detailed; in the third we must group those amendments of which the purpose is to increase economy and administrative efficiency, to invest the legislature with necessary powers, and to insure the open, inescapable, and popular responsibility of the elected servants of the people. Since these remarks are not intended to be a treatise upon government in the States, but only a review of what, by common consent, constitute some of the most urgent problems before us, I shall say of the first, that insofar as you may intend to submit to the people highly controversial provisions, it would be the part of statesmanship to submit them simultaneously, as you must, but also as you may, independently of the main body of the Organic Act. Of the second it would be a presumption to say anything at all. The third class is of almost inestimable importance, because there are issues raised, of which the sound solution cannot be gainsaid if the prosperity of the people, their education, and the steady and quiet maintenance of the civil order are to be secured. The increase in taxation and the increase in the cost of living, which is incidental to the burden of taxation and the inflation of the currency, conspires with the causes which existed before the war, to force upon our attention the implacable necessity of ordering and co-ordinating the local governments and that of the State. It is only thus that we may relieve the hard-driven taxpayer, by insuring to him, in return for his taxes, an efficient and economical public service, such as in recent years has not been possible.

The civil administrative code and the budget law, in the adoption of which there are some here who played a great part—these two sweeping statutes of Illinois, gentlemen, are held up everywhere in the Union as standards of practical and constructive statesmanship. Their pattern has been followed, and will be followed, by the legislatures of other states, and by Congress. In them, Illinois has made to the nation the most notable contribution to the method of public administration made by any state during our generation. However much the examples of these statutes may serve to lighten the burden of taxation throughout the Union, and so mitigate prices and contribute to prosperity, the work which you may accomplish can be very much greater, both for Illinois and for the nation. There is no representative body sitting in America today, whose work for good or for ill may have a profounder or more lasting influence than yours. What you do will touch the people, not of this State alone, but of all the Union. All, or almost all, the aspects and problems of State and local government, rural or municipal, are to be found in Illinois. Here is a State, of which the geography, the industry, and the agriculture, and in which the presence of a great metropolis, unite to make your action an example for every other state.

Thoughtful people must be heartened by the knowledge that you have no present purpose to incorporate legislation in our constitutional law, however you may be pressed, against your good judgment, by various interests—industrial, social or political. It is not many years since some of the states yielded to the temptation to do so. The harms that flow therefrom are many—among them, that of so diminishing the responsibility of the legislature as presently to make service in it uninviting. It was this error which greatly contributed to the defeat of the Constitution submitted to the people of New York some years ago. The undue limitation of legislative powers

in some states has worked the same injury as that done by the undue diffusion of executive authority. Both serve to confuse and to belittle the responsibility of public servants, to deter good men from public service, and to handicap the State in adapting its policies to the developing needs of its people. It is incontestable that, among free peoples, the representative assembly, by the test of all their experience, is the one instrument of the public will, everywhere tried, approved, and sustained. There have been various other experiments in forms of so-called popular representation—soviets, tribunals, democratic dictators, and multiple executives. It is true, none the less, that the assembly and the council—the general and the local representative bodies—most surely speak the considered public judgment.

You will have thought upon the necessity of relaxing the present limits upon legislative authority, in order to permit the Assembly to legislate, to meet the social and economic problems presented by modern industry, commerce, and agriculture. It is to be hoped, too, that the General Assembly may be given not only a new latitude in the matter of taxation, but powers to simplify, or to authorize the simplification and co-ordination, of local governments. Of course the problem of local government which looms largest is that of Chicago, but it cannot be forgotten that Illinois is destined to see within its borders other large, and perhaps very large, industrial communities. Such an one is coming into being, almost unnoticed, in Madison and St. Clair counties. We have for example, in Kane, Peoria, Rock Island, Tazewell, LaSalle, McLean and Champaign counties, and elsewhere, instances where the borders of growing municipalities reach out toward one another, or run together. In the larger centers of population, economy and popular control of government both demand that elections shall not be too frequent, nor the elective officers too numerous. The general welfare demands, no less, that coterminous taxing bodies shall not continue, competitively to consume the substance of the taxpayer. The legislature now can deal with the problem of municipal government. It ought to be able, within rational limits, to deal with that of the counties—since their differences of character are accentuated by the concentration of population and of industry in some of them. We do not want to keep our county governments in straight-jackets, any more than we wish arbitrarily to impose upon them changes which they are not ready to welcome. It is for that reason that it would be prudent to provide, in the Constitution, the means of meeting the problems which will be presented by a rich industrial development and the growth of cities in all quarters of the State.

An older, but very similar, problem, is that of the City of Chicago and the other governments under which its people live. They unduly tax the time and wealth of those who support them. The tax, of course, touches not only those whose real and personal property is assessed, but, through rents and prices, every person, young and old, dwelling within the city. Beyond this, gentlemen (as many here may bear witness from their own experience) the complexity and overlapping of the governments to which I have referred, imposes the gravest burden upon the General Assembly. For years, a great part of its time, and of that of its committees, has been consumed in preparing, passing, and patching legislation for the people of Chicago, to ease them, as it were, in their procrustean bed. It is to the interest of all of us that a wise solution, businesslike and statesmanlike, should be found for this question which we have long faced and failed to solve, in default of the necessary constitutional powers. No unbiased and thoughtful man will gainsay that the principle of consolidation is sound, whatever differences there may be as to its application. The arbitrament and settlement of those differences is a task to command all the resources of intelligence, experience, and public spirit, even of a body of men so notable for these qualities as that assembled in this Convention. No one doubts that the millions of dollars directly to be saved by these reforms will grow in a comparative sense with the years.

Any provision to invoke the public judgment upon policy or a project of law must be so framed that the majority cannot, by any fortuitous circumstance, be cheated out of the full and considered expression of its will.

There is another direction in which even a layman may express the hope that representative lawyers gathered from all over the State may find the road to reform. We hear everywhere that courts might be better organized for the continuing and prompt dispatch of business. Justice demands as much, and so does commerce. Delay in litigation is costly to the community.

We are compelled now, in an unprecedented degree, to think of government, local and general, in its relation to general prosperity. Great burdens of taxation paralyze enterprise, discourage thrift, war upon fugality, are inimical to general education. In bygone days, they have undermined civilization itself. This Convention, for the people of the State, and, by example, for the people of the whole Union, may provide a Constitution which preserves every cherished and essential principle of our government, but which so reforms methods as to abolish the great and familiar waste of public administration. If it succeed in this, its memory will live for generations. The people do not doubt that you will present to them an instrument under which they may be assured social progress, and economic justice, civil order and civil liberty, through the law and under the law. I thank you. (Applause.)

THE PRESIDENT. I speak, I am sure, the sentiments of all the delegates to this Convention when I express appreciation of the able addresses made by the distinguished Senators from this State.

This Convention, I am sure, is indebted to the Senators for the addresses which they have delivered upon the fundamentals of constitutional law with which this Convention must deal. We feel that the Senators have made a distinct contribution to our work, and we thank them for coming here today and addressing us. (Applause.)

We will resume the order of business where we left off, which was the introduction of proposals.

Whereupon the Convention proceeded upon the order of introduction of proposals.

Mr. DAVIS (Cook). I move that the Convention now take a recess until two o'clock.

(Motion prevailed.)

Whereupon the Convention took a recess until 2:00 o'clock p. m. Wednesday, February 25, 1920.

2:00 o'Clock P. M.

Convention met pursuant to recess.

The President in the chair.

Whereupon the Convention continued on the order of introduction of proposals, first reading of proposals, second reading of proposals, motions, resolutions, unfinished business and general orders of the day, all without debate.

THE PRESIDENT. The President will state that he is in receipt of a telegram announcing that Delegate Curtis of Kankakee county is seriously ill with pneumonia, and I will ask that the record show Delegate Curtis is excused.

Delegate Stahl, of Stephenson county, says that he has serious illness in his family. Without objection the record will show that Delegate Stahl is excused for the balance of the week.

Mr. LINDLY (Bond). I move that the Convention take an adjournment until 10 o'clock tomorrow morning.

(Motion prevailed.)

Whereupon the Convention adjourned until Thursday, February 26, A. D. 1920, at 10 o'clock a. m.

THURSDAY, FEBRUARY 26, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend Lester Leake Riley, Rector of Christ Church, Springfield, Illinois.

THE PRESIDENT. The Journal of February 19, 1920, having been printed and placed on the desks of the delegates at the session held on February 25, 1920, is now subject to correction. There being no corrections proposed, the Journal of February 19, 1920, will stand approved as printed.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions.

Mr. JARMAN (Schuyler). I offer the following resolution, and move its adoption:

"*Resolved*, That after the 1st day of March, 1920, except as specially otherwise ordered, the Convention meet at 10 o'clock a. m., on each day, except Sunday and Monday."

THE PRESIDENT. That resolution will be referred to the Committee on Rules.

Mr. JARMAN (Schuyler). I move its adoption, and I desire a roll call on the motion.

Mr. GREEN (Champaign). I move as a substitute for that motion, that this Convention refer the resolution to the Committee on Rules and Procedure.

Mr. LINDLY (Bond). I rise to a point of order. It goes directly under the rules to that committee. Without the suspension of the rules, it cannot be considered by the House. That will have to be done before this motion can be put to the House.

THE PRESIDENT. The point of order is well taken.

Mr. JARMAN (Schuyler). To what rule do you refer?

Mr. LINDLY (Bond). That the motion should be referred to the proper committee. That is the rule of every deliberative body.

Whereupon the Convention further proceeded upon the order of unfinished business and general orders of the day.

THE PRESIDENT. There being no further business to come before the Convention, a motion to adjourn will be in order.

Mr. SUTHERLAND (Cook). I move we adjourn, Mr. President.

(Motion prevailed.)

Whereupon an adjournment was taken to Friday, February 27, A. D. 1920, 10 a. m.

FRIDAY, FEBRUARY 27, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend Lester Leake Riley, Rector Christ Episcopal Church, Springfield.

THE PRESIDENT. The Journal of February 25, 1920, having been printed and placed on the desks of the delegates on yesterday, is now subject to correction. There being no corrections proposed, the Journal of February 25, 1920, will stand approved as printed.

Mr. JARMAN (Schuyler). I am in receipt of a letter from the gentleman from Hancock, Mr. Mack, stating that his family has been sick all this week, and he has been unable to be here. I would like to have his excuse entered on the Journal.

THE PRESIDENT. No objection, the Journal will show that Mr. Mack is excused.

Mr. LOHMAN (Cook). I desire to ask leave of absence this morning for Delegate Michaelson (Cook), who was suddenly called out of the city last evening on account of the death of his wife's mother.

THE PRESIDENT. There being no objection, the record will show Delegate Michaelson is excused.

Mr. DUPUY (Cook). I notice the absence of my colleague, Mr. Dawes (Cook); he has not asked me to present his excuse, but I know he would be here unless there was good reason for his absence. I ask that he be excused.

THE PRESIDENT. No objection, the Journal will show that Delegate Dawes is excused.

Whereupon the Convention proceeded on the order of general orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure presents the following report:

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in Committee of the Whole on Tuesday, March 2, 1920:

The consideration of the various Proposals concerning revenue, taxation and finance.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure presents another report:

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in Committee of the Whole on Wednesday, March 10, 1920:

The consideration of the various Proposals relating to or affecting education, and particularly the revenue Proposals as affecting said subject.

(Report adopted.)

Whereupon the Convention further proceeded on the order of reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions, unfinished business, and general orders of the day, all without debate.

THE PRESIDENT. No further business, a motion to adjourn will be in order.

Mr. SHANAHAN (Cook). I move that this Convention do now adjourn until 10 o'clock, Tuesday morning.

(Motion prevailed.)

Whereupon an adjournment was taken to Tuesday, March 2, A. D. 1920, at 10 o'clock a. m.

TUESDAY, MARCH 2, 1920.

10:00 o'Clock A. M.

The Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Rev. R. H. Heike, pastor of the West Side Christian Church of Springfield, Illinois.

THE PRESIDNET. The Journal of February 26, 1920, having been printed and placed on the desks of the delegates on February 27, 1920, is now subject to correction. There being no corrections proposed, the Journal of February 26, 1920, will stand approved as printed.

According to the rules, yesterday was the last day for the introduction of proposals. There being no session on yesterday, today proposals cannot be introduced without the suspension of the rules, or without unanimous consent. The Chair understands that some of the delegates desire to offer proposals this morning. The Chair will receive proposals if the Convention unanimously consents to receive them. The record will show in each case that leave was granted and that by unanimous consent the proposals were offered.

In this connection let the Chair suggest that a few proposals be introduced hereafter as conveniently may be, for the reason that the committees now desire to go to work upon the propositions before them, respectively, and until all the proposals are in it will be very difficult for any committee to begin to formulate its final report to this Convention. Are there any proposals to be offered under the leave granted?

Whereupon the Convention proceeded upon the order of general orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. At our meeting last week on Friday a resolution was passed fixing today for a hearing in Committee of the Whole of the various propositions introduced on the subject of revenue, taxation and finance. The Convention is now ready to resolve itself into the Committee of the Whole for the purpose of hearing the proposals offered on this subject. Mr. Gale, the chairman of the Committee on Revenue, Taxation and Finance will take the chair and act as chairman of the Committee of the Whole.

Whereupon the Convention resolved itself into a Committee of the Whole.

CHAIRMAN GALE. The Committee will come to order. The Committee on Revenue, Taxation and Finance have thought that on this first general hearing before the Committee of the Whole you would prefer to listen to discussion of the general subject of what the article on revenue in the new Constitution should be. With that in view we have asked Messrs. Shepard, Struckmann and Bell of Chicago, Mr. Bell being the present county attorney and Messrs. Struckmann and Shepard ex-county attorneys, and all of them experts along these lines to address you. We have also aked Mr. Frank I. Mann who is delegated by the Illinois Farmers' Institute to present their views on this general article to you, and Mr. Campbell E. Valentine of the Committee of One Hundred of Chicago, who has devoted a great deal of time and thought and attention to tax matters. The first speaker who will discuss the matter will be the Honorable Frank L. Shepard, and Mr. Shepard has requested me to say to you that if you have any questions to ask him he will be very glad to have you ask the questions during the course of his speech, you need not wait until he

has finished his discussion to ask questions. I now present the Honorable Frank L. Shepard.

Mr. SHEPARD, Gentlemen of the Convention. In order to keep within the reasonable limits of time and to be more precise and brief in my remarks on this subject I have prepared a tentative draft for a revenue article and with your permission I will follow that draft rather than speak of provisions generally that should or should not be in the Constitution. I will follow the draft as I have written it.

Preliminary to that, may I, in order to indicate the spirit and theory of this proposed article, may I state some fundamental rules that are quite familiar to every member of this Convention.

First, the power of taxation is an attribute and incident of sovereignty. The exercise of that sovereign power is vested wholly, except by constitutional restriction in the General Assembly. This draft proceeds upon that theory and its first section is in effect a declaration to that effect, and it leaves with the General Assembly the subject matter of taxation except as it is restricted in this proposal.

Of course that must be the theory of all revenue articles and is the theory of the revenue article of the Constitution of 1870. I have tried to avoid the iron-bound restrictions of the revenue article of 1870 which opens up with the general limitations that all taxes, or that all property shall be valued for purposes of taxes uniform as to every person and corporation. The first section of that article therefore prevents the classification of property and leaves it, or confines it, to that one general class, except as it is modified by the permission in the latter part of that section, and section two following, to add additional taxes such as may be illustrated by the Inheritance Tax Law, taxes in addition to the general valuation taxes. That is the general limitation of the 1870 Constitution except as the exemptions therein permitted releases certain classes of property from that general rule.

It seems to me that we should provide a revenue article that would leave the legislature free in the development of the science of taxation to set up a system for the levying of taxes by valuation or otherwise; by valuation or by a tax on privileges, occupations and incomes, or any other method, either one in substitution of others, or in addition to others, are partly in substitution or partly in addition to one or more of the other forms as the wisdom of the legislature might see fit, and following the economic development of the State and of the art of taxation as applied to that economic development.

Section 1 of the proposal reads: "The inherent power of the State over the subject matter of revenue is vested in the General Assembly except so far as it is limited in the Constitution of this State and in the Constitution and statutes of the United States."

Of course that is a mere declaration of what we all recognize as a fundamental rule of law, but it states the theory of this article. Commencing with the next article I have set up what I regard as reasonable limitations on the exercise of that otherwise unlimited power vested in the General Assembly.

Section 2 reads: "No tax shall be imposed except for public purposes and by general law uniform as to the class upon which it operates."

The latter part of that section is identical, or in substance identical with the last clause of section 1 of the present revenue article, and I think that under that restriction the legislature may establish classes both with respect to property and with respect to persons under the clause "by general law uniform as to the class upon which it operates." The present Illinois inheritance law was passed and sustained and that law illustrates the scheme of classification both with respect to persons and with respect to property and with respect to exemptions to which the legislature might go in forming or formulating revenue laws. The clause seems to me to be adequate to enable the legislature to write such revenue laws and to set up such classifications as it may deem necessary to establish an adequate law for the State.

Section 3 is substantially the same as section 3 of the present constitutional section on exemptions: "The property of the State, counties and other municipal corporations, both real and personal, and only such other property as may be used exclusively for agricultural or horticultural societies, for school, religious, cemetery and charitable purposes may be entirely exempted from taxation. All exemptions shall be by general law and shall be revocable by the General Assembly at any time. In the assessment of real estate encumbered by public easement any depreciation occasioned by such easement may be deducted in the valuation of such property." There are one or two important exceptions in this draft, or points upon which it departs from the present constitutional section on exemption. The first part of section 1 of the 1870 Constitution and section 3, setting up the exemptions permitted to the legislature, constitute together a limitation upon the power of the legislature to exempt property from taxation and together limit the legislature to those properties specifically enumerated in section 3. In this draft sections 1 and 2 of the present Constitution are entirely eliminated so that if the legislature is to be limited at all in the exercise of its otherwise unlimited power to exempt property from taxation, section 3 must be modified in some respects, and accordingly I have written this to read, "The property of the State," and so forth, "And *only* such other property as may be used exclusively for agricultural and horticultural societies, for schools, religious, cemetery and charitable purposes may be *entirely* exempted from taxation." The theory of this draft of a proposed article except as in this section noted is that every person in this State shall pay a tax upon his property, that there shall be no exemptions of persons or property except as herein noted, that is, exemptions in the entirety; that does not limit the legislature from setting up and levying of taxes by valuation and by some other method; setting up in that method various exemptions and of classifications providing the law fixes a liability upon a citizen for the payment of taxes in some form, and under this proposal every citizen would somewhere be liable to taxation.

I do not think it is necessary nor is the time sufficient to go into the philosophy of the question of exemptions, but before the Revenue Committee that is a subject that is worthy in my mind of great study, and is of fundamental importance in the making of a revenue law and in the making of a Constitution for the State.

I simply now desire to emphasize that in this proposal every citizen is held to account in the payment of taxes to the State, at the same time permitting the enactment of revenue laws that may provide for classification as to property and persons with exemptions in one form or method providing the citizen falls somewhere under some law for the payment of taxes to the State.

Section 4 of the proposal is identical with the present section 4 of the article on revenue law and relates to the sale of property for delinquent taxes except that to that part which refers to a general officer of the county, I have added the words, "or its successor," so if in the course of time a county might be merged with a city the constitutional section would be elastic enough to include such change of consolidation or merger. Otherwise it is identical with the present Constitution and it is a wise limitation. It has proven to be a necessary and wise limitation upon the dispositon of delinquent real estate. It vests in some one designated officer of the county the power to offer for sale delinquent real estate, and without it we might have confusion in the sales of property for the non-payment of taxes; the sale of property for the non-payment of delinquent county taxes by one officer, the sale of the same property for the non-payment of delinquent city taxes by another officer, and so on, almost ad infinitum, and the tax payer would not know at any time that he was safe in the possession of his property. This centralizes that responsibility and designates a single officer who may perform the function of divesting him of his title.

Section 5 of the proposal is identical with the present section 5 of article 9, and maintains the right of redemption from sale of taxes for a period of not less than two years.

Section 6 of the proposal is identical with the present section 6 of article 9 of our present Constitution.

"The General Assembly shall have no power to release or discharge any county, city, township, town or district whatever, or the inhabitants thereof, or the property therein, from their or its proportionate share of taxes to be levied for State purposes, nor shall commutation for such taxes be authorized in any form whatsoever."

That section was written into the 1870 Constitution to cure a growth of evils of commutation of taxes in various forms and has prevented the practice of that system since that time.

Section 7 is substantially identical with section 7 of article 9 of the present Constitution. The present article reads:

"All taxes levied for State purposes shall be paid into the State treasury." This is slightly modified because all taxes levied are never collected, we never have a 100 per cent collection, and slightly modified for the further reason that all money belonging to the State should be paid into the State treasury, and so I have written it to read: "All revenue and moneys collected for State purposes shall be paid into the State treasury." That would mean not only taxes, but every sort of collection; money collected from any source for State purposes shall be paid into the State treasury, whether license fees or proceeds of bond issues or the usual and ordinary proceeds of the annual tax levy.

Section 8 of the proposal is part of section 10 of article 9 of the present Constitution: "The General Assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment, or by special taxation of contiguous property or otherwise."

Mr. WILSON (Cook). What is the section that you are reading?

Mr. SHEPARD. Section 8 of the proposal, which is identical with the first clause of section 10 of article 9 of the present Constitution.

Mr. WILSON (Cook). Section 9.

Mr. MICHAELSON (Cook). What is the proposal that is under discussion?

CHAIRMAN GALE. The proposal which was introduced this morning and which has not been printed and sent to the delegates, Mr. Michaelson.

Mr. MICHAELSON (Cook). We have not the subject matter in our possession?

CHAIRMAN GALE. There has not been time to get it printed, Mr. Michaelson.

Mr. SHEPARD. Section 9 of the proposed draft is the same as section 11 of article 9 of the present Constitution and provides for the ineligibility of persons in default, and prohibits the increase or diminishing of compensation during the term.

Section 10 of the proposed draft takes the place, and in some respects is identical with section 12 of article 9 of the present Constitution. It reads:

"No county, city, township, school district or other municipal corporation, shall be allowed to become indebted in any manner or for any purpose, to an amount, including existing indebtedness, in the aggregate, exceeding five per centum on the full value of the taxable real property within its limits, as ascertained by the last assessment for State or municipal purposes; *provided, however*, that in the event of the consolidation in whole or in part of one or more municipal corporations or corporate authorities with another, or of the annexation of one or more municipal corporations or parts thereof to another, and the assumption by such latter municipal corporation of the indebtedness, in whole or in part, of such municipal corporation or parts thereof consolidated with or annexed to it, then such indebtedness so assumed shall not be included in said limitation on indebtedness of such latter municipal corporation. Any such municipal corporation, incurring any indebtedness as aforesaid, shall before, or at the time of doing so, provide for the collection of a direct annual tax sufficient to pay the principal of and interest on such debt as it falls due, and all bonds or other evidences

of indebtedness shall be of a serial issue payable in fixed annual installments. This section shall not be construed to prevent any such corporation from issuing its bonds in compliance with any vote of the people which may have been had prior to the adoption of this article in pursuance of any law providing therefor."

The changes in the proposed draft are substantially as follows:

The present limitation is five per cent upon the assessed value of taxable property of the municipality. The proposed draft fixes the measurement of limitation as five per cent of the full value of the real property of the municipality. That change is made for various reasons. First, it is necessary to have a standard of measurement of some substantially fixed or stable factor as nearly as that may be secured. If the legislature, under the terms of this draft should withdraw from the levy of a tax by valuation small or large, few or many classes of property, that of course would disturb the old factor of measurement. For instance, assuming that the legislature might set up an income tax and absorb in the income tax method of taxation classes of intangible personal property. If that were done and the old standard of measurement for a limitation were retained the factor would be so disturbed as to become useless or harmful, so some new method of measurement should be devised. We have been used to the standard of assessed values as a measurement of limitation. We know that real estate is the most stable kind of property that we have. It is there. It is most likely to be retained under the system of ad valorem taxes. The people and the municipalities are familiar with that, and so retaining that as the measurement of this limitation seems to be the wise standard to set up.

Mr. HULL (Cook). As taxes are now assessed and indebtedness incurred, this proposal would reduce the bonding power of the city, or increase it?

Mr. SHEPARD. It would increase it substantially. For illustration. The present bonding power of the City of Chicago under the present limitation is something like 82 or a little more than 82 millions of dollars. Under the limitation of the proposed draft that would be increased approximately 117 million dollars, using the 1919 assessed values for the purpose of making that comparison.

Mr. HAMILL (Cook). Will that same thing prevail in other parts of the State, the rural parts of the State?

Mr. SHEPARD. Yes, but we must bear in mind this, that rarely are the limitations exhausted. In some instances they are pressed to the margin constantly, but as to most municipalities and taxing authorities the limitation is rarely approached.

Mr. KERRICK (McLean). Would not that tend to a continual increase in valuation of real estate for the purpose of enlarging the amount of the indebtedness?

Mr. SHEPARD. I do not think so, sir, for this reason: The tax levying and tax spending body is not the assessing tribunal, they are separated in my judgment, widely separated.

Mr. KERRICK (McLean). They are equally subject to control.

Mr. SHEPARD. That is true, but we have two conflicting currents of sentiment and control. We have on this side the tax levying and tax spending influence and on the other side the tax owning and tax paying current of thought, an influence coming together, they tend to neutralize the influence of each other before this independent assessing tribunal; neither one exerting an unlimited or incontrovertible influence either from an economical or political standpoint.

Mr. HULL (Cook). The situation would not be different than now, except the assessment to be used would be on a valuation exclusive of other than real estate?

Mr. SHEPARD. Yes, identical as now; I do not think the history of the State would justify the conclusion that fixing a limitation on assessed value causes the enlargement of the assessment by the assessor. The influence of the taxpayer is so great upon the elected assessing tribunal that it meets

the influence of the tax levying and tax spending body. Other factors might be used or other standards of measurement. It has been suggested by a very keen thinker who is also a distinguished member of this Convention that the basis of the income of the municipality might be better employed as a factor of measurement for that limitation. That is certainly worthy of very serious consideration.

Mr. WALL (Pulaski). Did it ever occur to you that probably in agricultural communities, where the farms are leased to tenants and constantly leased, and that at the same time practically all of the wealth of the municipality, taking the school district for instance, and this law with reference to school houses, that they must contain certain measurements, certain number of feet of air space and so forth, whereby as the result of this law probably half the districts down the State had to build new school houses; that there would be a tendency on the part of tenants who occupied the farms to rob those districts to the constitutional limit because of the fact it is based purely on the real estate values. Is not that a factor that ought to be considered or is worthy of considering. I am speaking wholly of agricultural districts.

Mr. SHEPARD. I think it is an important factor. The experience of the State, I dare say, is that, as a rule, only has the limitation been reached when school houses have been built. Formerly court houses and other improvements caused an exhaustion of the credit of the municipalities, but we are trying to reach the most stable factor for measurement. If we leave in personal property in all of its phrases we then invite the disturbance of that factor of measurement by the withdrawal of personal property, or additional personal property from time to time, as the legislature might see fit to do under this proposed draft, if the legislature be left with power to classify personal property by some methods other than for the levying of a tax by valuation. The only way that I can see that your limitation may be made safe on the point that you make as well as other points, is to make the limitation small enough so as to protect the property and still large enough so as to permit the municipality to function as it should.

Reverting again to fixing a standard of measurement or limitation on the income: I have thought that over since called to my attention, very seriously, and the difficulty I had was assembling enough data over a long enough period of years, and over a large enough number of municipalities as to generalize a rule upon which we could safely write such a limitation into the Constitution that will reach out into the future for an unknown number of years. So far as my resources permitted I had no data except my own individual experience by which I could generalize a figure, and none in which I had any degree of confidence. That is one of the objections I found to using the income of the municipality as a standard for limitations. There are other objections that are perhaps not important as that.

Mr. DAWES (Cook). Do you feel perfectly satisfied with taking the valuation of real property as a basis of indebtedness? As I understand your discussion you adopt the valuation of real property as a mere index of a capacity of the municipality to discharge indebtedness. Now, under the Constitution of 1870, under a system of ad valorem tax the ratio of five per cent upon the valuations established automatically a certain relationship between the ability of the municipality to pay and the aggregate indebtedness that it was permitted to issue. There is no relationship under the sytem that you are proposing, by which personal property may be taxed partly upon value and partly upon income, between the valuation of real property and the aggregate income of the community; there is no relation between the ability of the municipality to pay and the limitation fixed upon its indebtedness. It was for that reason that in the proposal that I submitted, I ventured to suggest that this Constitutional Convention ought to consider very carefully fixing the limitation upon the basis of the aggregate collections from general taxation so that there would be established what was established under the Constitution of 1870, namely, a relationship between the aggregate indebtedness issued and the current income of the municipalities and organizations issuing the indebtedness. I see no such relation-

ship between the real value of the community property and the limitation of indebtedness.

Mr. SHEPARD. I get the point.

Mr. DAWES (Cook). As I understand your method you adopt that as a mere index.

Mr. SHEPARD. I do, as the best one. All of them should have very serious consideration.

Mr. DAWES (Cook). If the committee or committees can think of other indices, they may be included?

Mr. SHEPARD. Yes.

Mr. DAWES (Cook). You attach very little importance to measuring the ability to pay in connection with the limitation of the indebtedness established?

Mr. SHEPARD. No, but the difficulty is stating it.

Mr. DAVIS (Cook). May I suggest this: What Mr. Dawes has in mind is the principle which governs an individual or private corporation in issuing its indebtedness, it is always based on the factor of income, and Mr. Dawes is trying to incorporate that principle in the government of municipalities, that a municipality shall not incur indebtedness beyond its ability to pay, and so in his proposal he suggested just for illustration, that bonded indebtedness of a municipality shall at no time exceed five times the amount of the income of that municipality of the preceding year, and in that way he establishes the extent to which a municipality the same as a corporation shall incur indebtedness. That is the idea, isn't it, Mr. Dawes?

Mr. DAWES (Cook). I would like to add this: Of course we all understand that none of this real property which becomes your basis of fixing a limitation of indebtedness can ever be taken for the payment of public indebtedness.

Mr SHEPARD. Thank you very much, Mr. Dawes and Colonel Davis: In addition, my objections are not dogmatic at all, I like the idea advanced by Mr. Dawes. The first difficulty in setting up a figure, whether it be 500 per cent of the income or some other figure. I cannot do it, except by guess work or by my own limited personal experiences. That is not enough in making a Constitution projected out into the future, but there are other perhaps minor objections, and I come immediately to the point you made, of the relationship of the assessed value of real property to indebtedness and income.

Mr. DAWES (Cook). What I wanted to ask was, do you feel more certain about this basis that you advocate than you do to the ratio proposed by myself?

Mr. SHEPARD. I do, for these reasons: Using the income of the municipality as the basis for the measurement of the limitation on indebtedness involves further the task of bringing the municipality in the conduct of its debt incurring power and the transaction of its business into harmony with the conduct of private business. It assumes that capital is put into private business only when we have the factors of history, of past income, of present assets, of current income and a prospective future. But that is only incidental to private business as is first launched by the combination of capital and persons and art without any previous history, without any assets, without any income, and only speculative future. Furthermore it has this inherent objection. How much value there is to it I am not prepared to say, but I merely call it to your attention. Private business is the combination of persons and of capital and of art for production for private profit. A municipality is the combination of persons within a territorial limit for the conduct of government and not for profit at all. Private business has its human nature, and governmental business has its human nature, each distinct from the other. Now, that may not be a serious objection to employing the income of the municipality as a basis for the measurement of the municipal indebtedness. Now, as to real property and its relation to assessed value and the income of the municipality, I think we must go back in the philosophy of taxation another step: Real property is an index of the value of the community, of the assessed value of the community and

is a factor of the income of the community, but it is not the cause. Real estate is made by persons and personal property. You withdraw the persons and personal property from real estate and it goes back to nothing in value. The corner of State and Madison street in Chicago was once a spot in a dismal swamp of no value that we could comprehend, but with the coming of persons and personal property to that corner it has been made of immense value. What is true of that is true of every agricultural acre in Illinois and every other corner. Of course the physical coming of persons and personal property piled upon that particular parcel of land has been modified as distance has been eliminated by transportation facilities and by communications provided by mail, telegraph, telephone, wireless and so forth, but whether it be standing on the particular property or adjacent to it by communication far away, the principle holds good that personal property and persons make the real estate. We get back to the result and it is this, that the valuation in taxation of the community furnishes the basis of measurement of a limitation for indebtedness, or at least the best that I have been able to think out and better than any other I have been able to formulate.

There is added to this proposed draft the provision respecting consolidations with or annexations to a municipality, and the debts of bodies consolidated with or annexed to, in whole or in part, are exclusive of the limitation, on the theory that if a consolidation or annexation takes place that the indebtedness of the body consolidated with or the part of the municipality consolidated or annexed should not disturb this factor of limitation, and it is not necessary that it should be included; if it is annexed the indebtedness is soon paid off. Under our present Constitutional limitation it would only have an average life of ten years at most, and it is soon wiped out, and this limitation applies to the whole of the consolidated community. There is a further additional suggestion in this draft, "That all bonds or other evidences of indebtedness shall be of a serial issue payable in six annual installments." Our present article or section on indebtedness provides for the setting up of a fund for the payment of the indebtedness within a period of twenty years. In some instances that has caused the neglect to provide that fund, or the dissipation of that fund during the intervening years under the press of necessity; by providing for a serial issue of bonds evidencing the indebtedness the bonds are paid off as they fall due and as the tax is levied to meet that proportion of the indebtedness.

Section 11 of the proposed draft is a new section of definition which provides, "The terms, "revenue," "tax," "taxes," and "taxation" as used in this article, unless otherwise required by the context of each include general, special, inheritance, legacy, income, occupation and excise taxes, duties, licenses, costs, interest, penalties, fines, fees, forfeitures, and all burdens or charges imposed by the General Assembly, or, pursuant to its delegated power, by any county, city, township, school district or other municipal corporation or corporate authority," put in simply to avoid the enumeration throughout the proposed article of all these, or parts of these terms.

Section 12 is simply a saving clause and provides that "all statutes or parts of statutes in effect at the adoption of this article shall remain in force until otherwise provided by the General Assembly."

That completes the proposed draft for the revenue article.

Mr. DAVIS (Cook). Let me see if I understand the theory of this proposed draft. You propose to delegate to the General Assembly the power to devise such means for revenue, subject to the limitations that you have included there as the General Assembly may from time to time decide?

Mr. SHEPARD. Yes.

Mr. DAVIS (Cook). That would include the power to the General Assembly to continue the present method of taxation based on valuation of property, or to uniformly classify property, or to provide revenue by income tax, or by inheritance tax, is that correct?

Mr. SHEPARD. Yes.

Mr. DAVIS (Cook). One of the exclusion of the other, or by a combination or two or more?

Mr. SHEPARD. Yes.

Mr. DAVIS (Cook). Under your proposed draft there would be no limitation placed upon the power of the legislature in the matter of the income tax, no limitation of any sort?

Mr. SHEPARD. No, there is no limitation fixed in this proposed draft. The terms income tax or other forms of tax are not used. If I should write in this proposed draft or in a draft to be adopted a suggestion or words permitting, or words expressing income tax I would be inclined to couple with that expression a limitation the exercise of that power.

Mr. DAVIS (Cook). But as a matter of fact, in prescribing limitations upon the powers of the legislature, there is no limitation regarding its power to create legislation that it may be called upon to do?

Mr. SHEPARD. No, sir.

Mr. DAVIS (Cook). And that lack of limitation would assert itself in the mater of inheritance taxes?

Mr. SHEPARD. Yes.

Mr. DAVIS (Cook). In section 2, you use the words: "No tax shall be imposed except for public purposes"—what would be your interpretation of the words "public purposes"—and I would like to state what I have in mind. In the matter of administration the question has arisen as you know and the Supreme Court has been called upon to pass upon it, and passed favorably on the matter of providing money to private institutions which had been taking care of and bringing up children, and our Supreme Court has held that money raised by taxes may properly be used for such purposes. What is your understanding of the words "public purposes," if we should incorporate that into the Constitution, would that overcome the decision of the Supreme Court?

Mr. SHEPARD. No, I think the interpretation given to the term "public purposes" would interpret this provision: Of course, generally speaking, public purposes means the duties assumed and discharged by the governmental agencies of the State as distinguished from private enterprises, but getting a little closer, as you suggest, taking care of wards of the State has been regarded as a public business, the insane, the sick and poor, schooling or boarding, I forget which it was——

Mr. DAVIS (Cook). Schooling.

Mr. SHEPARD. Schooling the wards of the county or the State are held to be a public purpose and was not a contribution to the Institution, but the care of the ward was held to be a public purpose. That interpretation, of course, would define this phrase.

Mr. DAVIS (Cook). In other words, in your judgment, the words "public purposes" would be construed to apply to institutions whether they are conducted by the State or by municipalities or by corporations organized especially for that purpose.

Mr. SHEPARD. No, I would not go as far as that. One might be a public institution and another a private institution and the contribution might be for a public purpose or might be for a private purpose. I would go only so far as the Supreme Court went, and it very distinctly marked the limitation. The county could take care of its wards, and the taking care of it was not a contribution or the payment of money to a private purpose. The payment of money to that institution for the boarding and schooling of the State ward was only an incident. The primary and dominating purpose was the care of the child, and that controlled the decision, as I recall it.

Mr. DAVIS (Cook). This is not intended by you to change the present law of the State?

Mr. SHEPARD. No.

Mr. DAVIS (Cook). The next section I believe deals with the general subject of exemption. You said in the course of your remarks, as I understood them, that there was a philosophy of government which you did not discuss very fully in connection with your idea that the burden of taxation was in some degree or another touching every citizen of the State?

Mr. SHEPARD. Yes, in some form or another.

Mr. DAVIS (Cook). And I presume what you had back in your mind in connection with it was that citizenship, in addition to getting certain privileges and rights should carry with it a certain duty and responsibility which would assert itself in the matter of taxes. That is the principle you had in mind when you discussed the matter?

Mr. SHEPARD. Yes, that indicates it in a word. It might be developed, and probably is in the minds of every gentleman in this room. Of course, a citizen, and we speak of the citizens of Illinois collectively as the State, they are the State, they fight its battles, they pay its expenses, by their votes they control it. If you change that duty of contribution to support and reverse it, and turn it into a bounty, you eliminate one of those very important factors, and make the recipient of that bounty not a supporter of the State to that extent, but a recipient in fact of the bounties of the State and pin upon him to that extent the badge of servitude. He starts out with receiving this gratuity in the form of exemption from the State. It changes in his thought and he receives that from the governement as distinguished from the State, that is, from the persons in office for the time being; he receives it first perhaps as a favor and the next step in the development of thought is that he receives it as a matter of right, and it reverses that man's outlook and point of view towards the State so that he is simply a recipient of its bounty, not the master of the State, fighting its battles, and maintaining it out of his own pocket.

Mr. DAVIS (Cook). It puts citizenship on a higher pedestal in your judgment?

Mr. SHEPARD. Yes; it does. If I understand history that is one of the things, whether it be evidenced by exemption or some other form of gratuity, it gradually ripens into a sort of servitude, and it is one of the things that history points out as tending to the downfall of the State. It has been said that you may have bad laws, you may have a bad government, you may have good laws, badly administered, but if the body of the people are strong in intellect and morals and knowledge the State is safe, but if you lose the latter then when you lose your good government, your strong government, the State is gone, and that is history.

Mr. BRENHOLT (Madison). I would like to ask you, Mr. Shepard, what is your idea with reference to exempting household goods to the amount of $300?

Mr. SHEPARD. I am very much opposed to that from my own experience and my theory and my understanding, and for this reason, it has been suggested that the cost of collecting such small taxes as would be extended on an amount of $300 justifies wiping it out. That is a matter for the administrative office. The Constitution should set up this ideal of citizenship and statesmanship, making everybody liable to his state, liable to maintain his state. The $300 does not mean anything. The assessor now may pass that person's schedule up and mark it "no assessment" and frequently does do so, but setting up $300 does not mean anything. You came in and say your property and household furnishing are only worth $300, telling the exact truth and no assessment is marked upon your schedule. Your next door neighbor comes in with $6,000 worth of personal property and approaches the assessor and says the same thing. It all lies with the assessor. Of coure, that is an exaggerated example, but he is the one that values the property. $300 does not mean anything. You have destroyed your principle of government and of citizenshp in your charter without accomplishing any practical, good except an abuse of that measurement of exemption, that is, that maximum figure.

Mr. DAVIS (Cook). Under the draft it would be possible for the legislature in connection with the scheme for raising revenue to provide that the property of all persons up to a certain amount shall be exempt from taxation?

Mr. SHEPARD. Only in case the method employed for the assessment or taxation or furniture shall be in addition to some other method under which that citizen was required to pay taxes on his property.

Mr. DAVIS (Cook). I just wanted to bring that point out that the legislature could if it devised that sort of method, say that the furniture of every householder to the extent of the first $200 shall not be taken into consideration in connection with the levying of taxes.

Mr. SHEPARD. It could if that method were in addition to some method of embracing that $300.

Mr. DAVIS (Cook). Your provision regarding the payment of public indebtedness is on the basis of annual maturities, to provide by taxation the fund for the discharge of those annual maturities in preference to a sinking fund. Isn't it a fact, in your experience, that frequently large sums were accumulated in sinking funds which were bringing a small or no return at all to the municipality while the municipality was paying a considerably higher rate of interest on its indebtedness.

Mr. SHEPARD. That is part of the history of sinking funds in practice. The remainder of history is made up by the dissipation of the sinking fund entirely before the long period of redemption ripens into action.

Mr. FIFER (McLean). Mr. Shepard, you are aware, I suppose, that the present Constitution requires every person in Illinois to pay taxes according to the value of his property?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). What objection have you to that provision of the present Constitution?

Mr. SHEPARD. Because it is unworkable.

Mr. FIFER (McLean). How is it unworkable? It simply says that every person and corporation in Illinois shall pay taxes according to the value of the property.

Mr. SHEPARD. In the first place I should say it is unworkable and in the second place it is so unjust that no other reason perhaps need be given. You cannot assess intangible personal property to any degree of completeness under our present Constitution and the revenue laws, nor in my judgment can any revenue law be devised by which you can include in one class all classes of property.

Mr. FIFER (McLean). That is just what I am coming to. You would classify the property?

Mr. SHEPARD. I would permit that classification, yes, if I were a member of the legislature I would advocate it, unless an income tax included it.

Mr. FIFER (McLean). Sections 1 and 2 of your proposition are entirely new, aren't they?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). And you don't regard those as vital sections of your proposition?

Mr. SHEPARD. Yes; they mark the departure——

Mr. FIFER (McLean). Now, you would cast upon the General Assembly of Illinois by the first section absolute power over the right of taxation, that is what you do, isn't it?

Mr. SHEPARD. Except as has been noted.

Mr. FIFER (McLean). Do you know of any provision in the Federal Constitution of the Federal laws that impose any restrictions upon the General Assembly of Illinois to impose taxes?

Mr. SHEPARD. Yes; there are provisions in the Federal——

Mr. FIFER (McLean). You cannot tax up to the point of confiscation?

Mr. SHEPARD. I was not referring to that, Governor. Let me call your attention to a recent instance. The income tax of Oklahoma was sustained yesterday by the Supreme Court of the United States.

Mr. FIFER (McLean). Of that state.

Mr. SHEPARD. Of the State of Oklahoma, and the income tax law of New York was in part invalidated by a decision of yesterday.

Mr. FIFER (McLean). The Federal Constitution nor the Federal laws would afford the people but little protection on an enactment of the legislature, would it?

Mr. SHEPARD. I think they would, and with the limitations outlined here afford ample protection.

Mr. FIFER (McLean). From the Constitution?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). What?

Mr. SHEPARD. You would have the 14th amendment, all the provisions of the 14th amendment by which these two laws were adjudicate yesterday by the United States Supreme Court, affording equal protection of the laws to all citizens.

Mr. FIFER (McLean). I come to this point. This contemplates that the General Assembly shall classify property in this State, doesn't it?

Mr. SHEPARD. It permits that, yes.

Mr. FIFER (McLean). Isn't that the purpose of it?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). Now, in the second provision you say that all property shall be uniform as to class?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). If this proposition were to go into the Constitution what would prevent the General Assembly of this State from placing all cows in one class and all horses in another class? There is no limitation imposed on how they shall classify property.

Mr. SHEPARD. It must be reasonable and substantial.

Mr. FIFER (McLean). They place cows in one class and horses in another.

Mr. SHEPARD. I am inclined to think they could not.

Mr. FIFER (McLean). The tax shall be uniform as to classes?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). That is, you would tax one horse the same as another if it was of the same value, but why couldn't you in that case place one value on cows, the classification in which cows are found different from horses and make cows of equal value pay a greater tax than horses?

Mr. SHEPARD. I do not think there would be enough of a basis to form such classes.

Mr. FIFER (McLean). You think the Supreme Court of Illinois would declare it unconstitutional?

Mr. SHEPARD. I think so.

Mr. FIFER (McLean). What letter of the Constitution if this should become a law would it violate?

Mr. SHEPARD. Both the terms of this class presupposes and includes the basis for a class, and the Federal Constitution that I have referred to.

Mr. FIFER (McLean). The Supreme Court would have no right to say, it is a legislative question, it is a political question unless there is something in the Constitution, the Supreme Court cannot interfere with another department of government and the test is always as to whether it is a political question. Of course, if it is a political question and it violates the Constitution, they appeal to the Supreme Court.

Mr. SHEPARD. I would say it is a legislative question as distinguished from a judicial question, but the judicial power of the State remains to determine and interpret the reasonableness, the question of whether there is a basis for a class.

Mr. FIFER (McLean). What would there be in the Constitution, if this should become a part of it, to prevent the General Assembly from placing all intangible property in one class? Now, that is the purpose of it, isn't it?

Mr. SHEPARD. That is not the purpose, but I think they could do so.

Mr. FIFER (McLean). And they could make a distinction between that, when it come to the question of taxation, between that and other classes of property, isn't that true?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). And isn't that what you want done?

Mr. SHEPARD. I would advocate it.

Mr. FIFER (McLean). That is what you want, intangible property assessed at a less sum than real estate, for instance?

Mr. SHEPARD. No, I would not advocate that, I would advocate a classification for one different from the other, for both to be assessed, then I would say they should both be assessed on the same basis.

Mr. FIFER (McLean). What is the use of classifying it if it is assessed the same?

Mr. SHEPARD. Taxing it on the same basis is a different thing than assessing it on the same basis.

Mr. FIFER (McLean). What do you mean by assessing it on the same basis?

Mr. SHEPARD. I mean the valuation of the property. The taxation is the levying of the precise sum which it shall pay.

Mr. FIFER (McLean). Suppose intangible property should be placed in one class and horses in another class, and one man, Mr. A has a thousand dollars worth of horses and Mr. B has one thousand dollars worth of intangible property, you would have them pay exactly the same tax provided they live in the same political division of the State?

Mr. SHEPARD. It would depend on the character of the intangible property. I would leave the legislature free to so classify that property.

Mr. FIFER (McLean). Suppose Mr. A owned a note and mortgage in the City of Chicago, and it is classified intangible property, that is put in a class and a man's dry goods and his store is put in another class and Mr. A owns a mortgage and the note which is worth $1,000 and Mr. B's stock of goods is worth $1,000. Now, would you have them pay the same taxes?

Mr. SHEPARD. That would depend on the ability of each class to pay the tax.

Mr. FIFER (McLean). Who will determine that ability?

Mr. SHEPARD. The legislature, in possession of the knowledge at the time.

Mr. FIFER (McLean). How are they going to determine it?

Mr. SHEPARD. From the facts.

Mr. FIFER (McLean). What facts? There is a man who owns a stock of goods and it is worth $1,000, and another man owns a note and mortgage which is worth $1,000.

Mr. SHEPARD. You have only stated a few of the elements that enter into this. Assume that the stock of goods produced an income of thirty per cent upon the investment per year, and that the mortgage produced an income of three per cent on the investment per year; those facts as well as all other facts would be before the legislative mind, and upon all of those facts including the ones you mentioned the legislature might frame a revenue law.

Mr. FIFER (McLean). And the tax assessor would have to determine that fact?

Mr. SHEPARD. No, the legislature would.

Mr. FIFER (McLean). Suppose a man had loaned his money at four per cent and another man had a note and mortgage from which he was getting six per cent, what would you do?

Mr. SHEPARD. There would be no basis of classification between the two mortgages. The market at the time would determine.

Mr. FIFER (McLean). Don't you know there is a great discrepancy in the interest that the intangible properties are drawing?

Mr. SHEPARD. Yes, I know that.

Mr. FIFER (McLean). One man if active and ingenious can loan his money to better advantage than another man, can't he?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). You would tax the intangible property alike?

Mr. SHEPARD. I might not or I might, it would depend on the facts involved.

Mr. FIFER (McLean). I see here you impose only one limitation, and that is, that the property in each class shall be taxed uniformly, but you say one class may be taxed at a less sum than another class. If you are going to trust to the General Assembly to fix the difference between each class, why not take the bridle off entirely and impose no limitation as to classes?

Mr. SHEPARD. I think this limitation is a very wise one and an adequate one, and I think it is a necessary one.

Mr. FIFER (McLean). If you are going to trust the legislature at all, let's trust them all the way through.

Mr. SHEPARD. That is a matter of judgment and your judgment probably is much better than mine, but I think that this limitation as to uniformity and the application of the law to each class should remain in the Constitution.

Mr. FIFER (McLean). Now, Mr. Shepard, don't you know that this amendment, this change in the present Constitution which provides that every man shall pay taxes according to the value of his property, that that change originated with the Civic League in Chicago?

Mr. SHEPARD. No, I do not know where it originated. The old has never been a workable provision.

Mr. FIFER (McLean). Don't you know in 1916 they proposed an amendment something similar to this to allow the legislature to pass laws in regard to taxation taking the bridle off entirely, you are familiar with that, aren't you?

Mr. SHEPARD. I am familiar with the proposed amendment which took the limitation off, Governor, with respect to personal property.

Mr. FIFER (McLean). And you know they sent literature to farmers and the people down the State in which they showed by the literature sent out the intangible property was escaping taxation, and that if their amendment should carry this property in some mysterious way, they did not state just how, it was to leap forth from its hiding places and pay taxes, and it would reduce the taxation on the land and other tangible property down State, aren't you familiar with that?

Mr. SHEPARD. Yes.

Mr. FIFER (McLean). Now, how was it proposed that this intangible property would be discovered if that amendment had become a law?

Mr. SHEPARD. I don't know how anyone else would do it, but I would suggest this in answer to your question how it could be accomplished. The income tax could absorb all that property that now escapes taxation in this State and include it and thus within the taxing power of the State. Take for illustration our Federal income tax, all of this intangible property——

Mr. FIFER (McLean). I am not opposed to income tax on intangible property providing there is a limitation, that it shall yield its just proportion of taxes. I talked to some of those men, and their literature pointed that way, that if the amendment was adopted and the General Assembly was permitted to classify property, they could place intangible property in a class by itself and reduce the valuation of that property so that the people who had hid it away in little tin boxes every time the assessor would come around in the spring they would put those boxes under their arm and start out to look for a tax assessor, that was the theory. My position was that a man who will hide his property for one dollar will hide it for a half a dollar, and that some other method must be adopted. You say that if this proposal becomes a part of the Constitution the purpose is to place intangible property in a class by itself, don't you?

Mr. SHEPARD. I would do so.

Mr. FIFER (McLean). Hasn't that been the talk among the folks generally who are interested in this proposition?

Mr. SHEPARD. I am not prepared to answer that. My experience would limit me to my own views largely, and generally speaking.

Mr. FIFER (McLean). One of the crying evils it is said in this literature, and will be argued, I have no doubt, on the floor of this hall, that intangible property is escaping taxation. If this should become a part of the Constitution and the legislature should pass a law placing intangible property in a class by itself, will you tell us, if you please, how that is going to find out this hidden property that has been escaping taxation?

Mr. SHEPARD. To make a short answer, I will use for illustration the Federal income tax law. All such property pays its share of the public burden under the terms of that law, and in its practical operation it does

not escape, but is all included. Now, the State might set up a similar law with like effectiveness in operation. Under such a law this vast quantity in value and kind of intangible property would, it must be conceded by everyone, bear a tax, would contribute something to the State. The aggregate of that on a very small rate must likewise be conceded to be a very large sum of contribution to the State. The contribution of that sum to the State with new and aditional contribution to the State for the maintenance of the governmental expenses of the State and the agencies of the State would reduce the necessity of the increasing tax rate on real estate. Real estate then instead of being made to stand and deliver as almost the only soldier on the firing line would have by its side this vast quantity of intangible wealth that by an almost automatic operation of law would be made to contribute its share of the public burden, benefiting the State but benefiting the real estate.

Mr. FIFER (McLean). Yes, but the question is not whether intangible property shall be taxed, it could be taxed a very small sum. The question is shall it be so taxed that it shall bear its just proportion of the burdens of the State. That is the question.

Mr. SHEPARD. That is in the present Constitution. Permit me to call your attention to the fact that that appears in the 1870 Constitution, it has never worked since it was written in there.

Mr. FIFER (McLean). What is that!

Mr. SHEPARD. That each class shall bear its share of the burden.

Mr. FIFER (McLean). Taxes is only an approximation. Here we raise 50 million dollars of taxes in this State annually. Everybody knows that you cannot have that tax raised upon all individuals exactly equal, it is only an approximation. Now, will you favor, and those who stand with you on this proposition, for a provision amending your proposition here of allowing the legislature to assess all intangible property and classify intangible property, with a provision that it shall pay an income tax equal, according to its value with other taxes that is raised on other property, would you object to that?

Mr. SHEPARD. I would not suggest that, because that in principle is our present Constitution.

Mr. FIFER (McLean). I have read that with some care, but of course I have not it with me.

Mr. SHEPARD. Let me call your attention to this, which you have already repeated, that the present Constitution, which limitation we are now departing from, requires all property of every species to bear a uniform share of the public burden, and it never has worked out.

Mr. FIFER (McLean). It could not be, there is no body of men on earth, if you would give them all the power they could ask could ever make taxation perfectly equal, it is only an approximation.

Mr. SHEPARD. It is only an approximation, and it is not uniform or equal in the strict sense of the term, but the term approximation and that deviation from uniformity and equality is only permitted as an incident in the interpretation of the terms and theory of the law, whereas it becomes the substance in the operation of the present revenue laws of the State of Illinois. It is the evasion and the violation, that is the principal part of the law. Human nature, of course, in the administration of the revenue laws cannot reach perfection, but the approximation only is expected, but that the departure or failure should be only a minor percentage of the whole, and not a dominating percentage of the whole.

Mr. FIFER (McLean). If this becomes a law you would give the legislature absolute power over the right of taxation, would you?

Mr. SHEPARD. I should give the absolute power except as modified.

Mr. FIFER (McLean). It must be uniform as to classes.

Mr. SHEPARD. And other limitations here.

Mr. FIFER (McLean). Those do not affect the amount of taxes that shall be paid. I have no objection to that. The bone of contention on your proposition is the first and second sections, and you know it, I think. Do you think it is safe to entrust any General Assembly with the absolute over taxation?

Mr. SHEPARD. No, or I would have done so in the proposal that I have submitted.

Mr. FIFER (McLean). It shall be uniform only as to classes. That is all property placed in the same class must be uniformly taxed, but as between classes you can have a different rate, can you?

Mr. SHEPARD. There are some fundamental limitations in this proposed draft which you overlooked.

Mr. FIFER (McLean). Don't you know that all text writers say that the power to tax means the power to destroy?

Mr. SHEPARD. That is only a phrase; the same text writer says that taxation is a necessary and inherent power, that there may be no state without the power to tax and the exercise of that power.

Mr. FIFER (McLean). Don't the power to tax imply the power to destroy, is not that the reason why they say that one sovereignty cannot tax the property of another, that is the State cannot tax the post office and other property of the United States, and neither can the United States tax the property of the State, and that is the reason that the text writers say that the power to tax means the power to destroy?

Mr. SHEPARD. I do not agree with that statement.

Mr. FIFER (McLean). Why is it then you take the salaries of the State officers of this State, they do not have to return it to the Federal government as a part of its income, why is that, if it does not mean the power to tax means the power to destroy?

Mr. SHEPARD. It does not primarily mean the power to tax means the power to destroy, it means the power to maintain, amend and preserve the State is the fundamental principle. Every well known text writer on taxation lays down that principle and every adjudicated case by our most respected judicial tribunals lays that down as a primary principle.

Mr. FIFER (McLean). In Illinois we tax for the purpose of maintaining our State institutions.

Mr. SHEPARD. Under the first Federal income tax, as I recall it, all salaries were included, but by an effective influence or suggestion it was amended and the salaries were excluded. Under the first draft the income from the bonds of the municipalities were included. Under the redraft they were excluded. In some instances, of course, those minor incidents are controlled by constitutional provisions, but in other instances they are controlled by the legislative body.

Mr. FIFER (McLean). Oh, yes, that comes right back to the question as to whether we shall impose some restrictions on the General Assembly or whether we will take off the bridle and say you do as you please, that is the only question. The principle is the protection of life, liberty and property, but in the convention that framed the Federal Constitution it was argued there they had placed property above liberty, because the Indian gave up absolute liberty, that is one example, for the purpose of organized society where property was secure, so they argued they had placed property above liberty, and now you propose to take that practically out of the Constitution. "It shall be uniform as to class," but you can assess one class of property at a different rate from another class of property, and that is practically taking off the bridge. That is all.

Mr. BRENHOLT (Madison). I move we recess until 2 o'clock.

Motion prevailed.

CHAIRMAN GALE. Mr. Shepard has practically got up from a sick bed to come here and talk to us and I think he is entitled to a little rest before he talks again.

Whereupon the Committee of the Whole took a recess until 2 o'clock

2:00 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to adjournment.

Chairman Gale presiding.

CHAIRMAN GALE. There is one suggestion which I would like to make to the members of this committee. This subject, of course, is of vital interest to all of us. There is going to be, before we get through here, ample

time allowed for debate and for everyone to express his views. May I, therefore, suggest to you that out of courtesy to the speakers during the rest of this session you confine yourselves to questions asked of the speakers to elucidate the view of the speaker, rather than to debates upon the subject. Mr. Shepard will again address you.

Mr. KERRICK (McLean). I wish to say in the beginning that we back here have not been able to hear distinctly all that was said, and because of that, possibly the questions that have suggested themselves to me may not appear to you relevant, because I may have misunderstood something that was said. If we meet with anything of that kind, I would be glad to have you remind me of its irrelevancy.

We are under some embarrassment in trying to assimilate and intelligently discuss a measure which really is not before us in a way that would afford us time and opportunity to properly understand the measure. That is unfortunate, probably for the speaker as well as for us, because it may lead to questions which are perhaps not germane because of lack of clear understanding of propositions such as we have ordinarily before this committee, when the propositions are printed and laid upon our desks and which we have quite thoroughly digested. I regret very much that as important a measure as this should have been presented simply as the speaker has had time to read parts of it. However, some questions have suggested themselves to me about which I very much desire information. I wish to insure not only the speaker but the chairman that I will not transgress the rule.

The first thing that attracted my attention, Mr. Shepard, was an expression substantially this: "Classify both real and personal property." Now, will you state briefly what was in your mind when you drafted this proposition concerning classification of real estate?

Mr. SHEPARD. Senator, reading from the text of my proposed draft, section 2 reads as follows:

"No tax shall be imposed except for public purposes and by general law and form as to the class upon which it operates."

Mr. KERRICK (McLean). That is the language of the draft?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). But if you were a member of the legislature and constructing the law under which this levy or permission is to be administered—you must have had something in mind, I take it, as to some sort of classification of real estate. Now, what was that which you had in mind?

Mr. SHEPARD. I had in mind, for instance, the possibility of a classification which would permit the legislature to place real estate in one class, at least, for a tax by valuation. For instance——

Mr. KERRICK (McLean). All real estate?

Mr. SHEPARD. All real estate.

Mr. KERRICK (McLean). Improvements in land as well?

Mr. SHEPARD. All real estate with improvements, land as well, or unimproved real estate or improved real estate.

Mr. KERRICK (McLean). Now, let me ask, that was in your mind?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). Might it not well be in the mind of the legislator and well within his power under the language you have read to divide real estate into some class or classes that might occur?

Mr. SHEPARD. I didn't get your question.

Mr. KERRICK (McLean). Real estate and personal property—would not that permit a classification? It occurs to me now as one of the many possibilities; permitting one class to be made of unoccupied or unused land, another to be made of land used, another which would segregate land from what we now call real estate, the improvements attached to it; not that that was in your mind, but is it not true that a legislator might, under the language of your proposition, make all of these supposed classes of real estate.

Mr. SHEPARD. There is a possibility that he might do so.

Mr. KERRICK (McLean). There is a possibility. That is a sufficient answer to my question.

Mr. SHEPARD. I have not fully answered it. I have not completed my answer.

Mr. KERRICK (McLean). Very well.

Mr. SHEPARD. The legislature might possibly do so if it met the test, the reasonableness in classification, but it would also have this limitation in this proposed draft, of subjecting it all to taxation, and subjecting all property, personal and real property, to taxation, neither one being permitted under this draft to be exempted; in other words, forbidding, for instance, the single tax theory, the application of the single tax theory.

Mr. KERRICK (McLean). I am not construing any language that I heard to imply a prohibition of the single tax theory.

Mr. SHEPARD. Of course, in the application of the single tax theory, as I understand it, involves exemption of some other classes of property, or at least of some other classes of property. That is prohibited in this draft. Consequently, it is impossible to set up——

Mr. KERRICK (McLean). Where is the prohibitive language?

Mr. SHEPARD. It is in the exemption clause which I read. If you will permit a repetition.

Mr. KERRICK (McLean). Oh, yes.

Mr. SHEPARD. Section 3: "The property of the State, counties and other municipal corporations, both real and personal"—now, skipping the next phrase. Those may be exempted by the legislature.

Mr. KERRICK (McLean). Yes.

Mr. SHEPPARD. Then coming on to the other class——

Mr. KERRICK (McLean). That is as far as you go with reference to real estate?

Mr. SHEPARD. No. That is as far as I go with reference to property owned by the State and by counties and by other municipal corporations.

Mr. KERRICK (McLean). I get that.

Mr. SHEPARD. Now, coming to the class of property owned or used for agricultural or horticultural purposes, or for school, religious, cemetery and charitable purposes, this language is employed: "——and only such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be entirely exempted from taxation."

Now, that is the only class of property that may be entirely exempted from taxation. Then taking all the property, both real and personal, it must be taxed in some form which forbids the application of the single tax theory.

Mr. KERRICK (McLean). I was not asking about the single tax theory.

Mr. SHEPARD. That is the most exaggerated illustration I could use.

Mr. KERRICK (McLean). My question was, is there anything in there prohibiting classifying real estate?

Mr. SHEPARD. Not in terms.

Mr. KERRICK (McLean). Not merely real estate as a whole, but in separable forms.

Mr. SHEPARD. Not in terms, yes, sir.

Mr. KERRICK (McLean). There is nothing in terms prohibiting it?

Mr. SHEPARD. Section 1 and section 3 must be read together.

Mr. KERRICK (McLean). Is there anything implied in either one of them that would halt the legislature in making a classification of real estate into two or three or as many different species as they imagine would work?

Mr. SHEPARD. Not so long as they base their classification——

Mr. KERRICK (McLean). How?

Mr. SHEPARD. Not so long as they made their classification upon some sound basis.

Mr. KERRICK (McLean). What would you mean by sound basis?

Mr. SHEPARD. And adhered to the principle of taxation for each of the classes.

Mr. KERRICK (McLean). Who would decide whether it was a sound basis?

Mr. SHEPARD. The legislature would decide first, subject to review by the court.

Mr. KERRICK (McLean). Would you be in favor of a reasonable classification, assuming the classification could be had in separating improved from unimproved land, in classifying it?

Mr. SHEPARD. It might be a reasonable basis of classification.

Mr. KERRICK (McLean). And would there be anything unreasonable if the legislature should conclude in its capacity what was reasonable, and the Supreme Court would decide otherwise, in a separation of classes of improvements on real estate and the land itself?

Mr. SHEPARD. I think it would be a reasonable basis of classification.

Mr. KERRICK (McLean). That is all. Now, as I understood you and heard you, you remarked that in effect your proposal eliminates sections 1 and 2, article 9, of the present Constitution; takes the place of them and eliminates them.

Mr. SHEPARD. It does in effect eliminate sections 1 and 2.

Mr. KERRICK (McLean). Now, did the amendment which was voted upon in 1916, and which failed of adoption, provide for anything more radical or anything larger than that?

Mr. SHEPARD. Nothing more so far as those two sections are concerned, but limited in that proposed amendment to personal property.

Mr. KERRICK (McLean). Was it not the language of that amendment substantially—I shall try to remember it as nearly as I can—that those sections were to be as if they never had existed, in case of the adoption of that amendment?

Mr. SHEPARD. As to personal property; yes, sir.

Mr. KERRICK (McLean). As to personal property?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). Well, now, if you eliminate them in effect, wouldn't we be without any constitutional mandate that would cover personal property?

Mr. SHEPARD. No, because they are set up——

Mr. KERRICK (McLean). Couldn't the legislature, if it saw fit, so classify it that the tax would amount to an exemption; couldn't we go to that extent?

Mr. SHEPARD. No, because there is set up in this proposed draft sections that take the place.

Mr. KERRICK (McLean). You are familiar, are you not, with the statute of New York, as it existed in the last year, or in the year 1916, I should say, which permitted the owners of mortgages and indebtedness secured in such way that they were entitled to record by paying for stamps at the rate of five dollars for each thousand dollars face value of the instrument, thereafter being immune as to taxation of that mortgage or that instrument?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). Would, in your opinion, your proposition permit the legislature to make a provision for a law such as that?

Mr. SHEPARD. No, sir.

Mr. KERRICK (McLean). Why?

Mr. SHEPARD. As I remember the New York statute, that initial payment made that evidence of indebtedness immune, to adopt your term, which I think is better than I could formulate myself.

Mr. KERRICK (McLean). How is that?

Mr. SHEPARD. But this draft does not permit the owner of that indebtedness to be exempted from taxation upon that evidence of indebtedness five years from now if he might still continue to own it.

Mr. KERRICK (McLean). What statute?

Mr. SHEPARD. This proposed draft.

Mr. KERRICK (McLean). Does your draft speak of five years?

Mr. SHEPARD. Any year in the future.

Mr. KERRICK (McLean). Well, there are some securities, are there not, that run twenty years?

Mr. SHEPARD. Any year in the future.

Mr. KERRICK (McLean). There are some securities which escaped with the stamp act in New York that had 416 years to run, are there not; have you ever heard of those?

Mr. SHEPARD. I have heard of long time obligations. I don't remember now just how long.

Mr. KERRICK (McLean). Well, if you read the report—I presume you have—of the proceedings of the so-called National Tax Association, of June, last year, in Chicago, you have seen—I don't know whether you have or not—but I will say you have seen a statement made by the assistant comptroller of New York, not of the city but of the State, to the effect that that was so; that the Hartford and other insurance companies—I can't remember the names now exactly—were immune, some of them for 416 years, others for over 200 years, and scarcely any of the instruments recorded have less than twenty. It is a fact now that that law was in force at the time of the amendment submitted in 1916, at the time that literature was being sent out in favor of its adoption; that law was in force, was it not, the five dollars on the thousand?

Mr. SHEPARD. I think so.

Mr. KERRICK (McLean). And was cited in the literature issued by the Civic Federation as an example of the benefit that Illinois could derive from such a statute?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Since then New York has abolished that, has it not, repealed it?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). You are aware of that. And what has it put in the place of it?

Mr. SHEPARD. I don't know, except it has set up an income tax.

Mr. KERRICK (McLean). Do you think an income tax is in force now in New York City?

Mr. SHEPARD. Sir?

Mr. KERRICK (McLean). Do you think an income tax is now in force in New York City on intangible property?

Mr. SHEPARD. On all property, as I understand.

Mr. KERRICK (McLean). Pardon me if I say either you or I are mistaken.

Mr. SHEPARD. I would rather take your judgment.

Mr. KERRICK (McLean). It isn't judgment; I am going on information.

Mr. SHEPARD. Well, your information.

Mr. KERRICK (McLean). The income tax in New York City as applied to intangible property was abolished a year ago. Now, this is my judgment; this is not my information. It is my judgment that it was through the influence of the owners of hundreds of millions and perhaps many billions of intangible property owned in New York City, but the fact is, it is not judgment, the fact is that the income law was removed from intangible property in New York City in 1919, and the comptroller's own statement, I think he is either the comptroller or the deputy—it will be found in the Tribune, if any of you gentlemen have access to the file, of October 4th, it is dated October 3d, last, with the headline, "New York City Loses $4,000,000 in Tax." Then the article proceeds to say that because of the new law, which prevents the assessors, something like that, from assessing intangible property in New York, there will be a loss of $4,000,000 tax for the valuation in New York City, and this notwithstanding the valuation of

real estate in New York was increased $208,500,000. Now, that is the latest news from New York. New York abandoned the stamp act. She tried again to extend the immunity, not for all time, but for merely the lifetime of the instrument upon which the stamp was put. That didn't help. It did for a little while, but it did this, too: It put out of reach of taxation nearly one billion dollars. I am taking what was said before the National Tax Association meeting of last summer, in June, in Chicago, by the comptroller or deputy comptroller of New York. That is what has happened there. They found the income tax extremely effective, too effective, in fact, and they are doing without it now. The result will necessarily be that next year, in order to make up the four million lacking this year, and of course the four million for next year, eight million more will have to come out of the real estate. Instead of being increased $208,500,000, it will have to be increased to about $500,000,000. That is the situation in New York.

VOICES. Question.

Mr. KERRICK (McLean). Perhaps this is going too far, but the gentleman asked me for information.

Mr. SHEPARD. Senator, in answer to your *question*, permit me to say that I am not prepared to enter into a historical review of the New York Revenue Law, nor am I prepared to discuss the relative merits of those laws——

Mr. KERRICK (McLean). Very well.

Mr. SHEPARD. ——with the laws of other states, but getting down—if I may complete my answer—getting down to the precise question you asked, or which might be inferred you asked, this does not permit of the New York stamp act; it forbids it.

Mr. KERRICK (McLean). In terms?

Mr. SHEPARD. Yes, in terms. When you say that that class of property shall not be exempted, that is a general term that forbids every form of attempted exemption.

Mr. KERRICK (McLean). So you would agree with me that that was an exemption?

Mr. SHEPARD. Furthermore, instead of excluding property, the purpose and intent of this draft is to put everything in, all these intangibles, for their proper contribution to the burden of the State.

Mr. FIFER (McLean). Ask him how it will put everything in.

Mr. KERRICK (McLean). Well, I must hurry on. Now, section 3, as I remember, you spoke of as modified so that various claims of exemption may be made; what will they probably be?

Mr. SHEPARD. They would be what I have just read to you.

"The property of the State, counties, and other municipal corporations, both real and personal, and only such other property as may be used exclusively for agricultural and horticultural societies, for school, religious, cemetery and charitable purposes, may be entirely exempted from taxation." Now, beyond that——

Mr. KERRICK (McLean). There is only a small tax put on any of that property that would be construed by the Supreme Court as an exemption.

Mr. SHEPARD. No. I would say that property may be entirely exempted.

Mr. KERRICK (McLean). After the word "only," which is the word, as you say, which prevents the legislature from entirely exempting anything else excepting that cited, but providing in case the legislature should put a very small tax or something in the nature of five dollars on a thousand tax, would it not stand before the Supreme Court under this proposal?

Mr. SHEPARD. Well, five dollars per thousand might be a high tax or it might be a low tax.

Mr. KERRICK (McLean). From common experience, would you think that sort of tax would be upheld by a decision of the Supreme Court if certain property were put under such an enactment?

Mr. SHEPARD. If a tax of five dollars per thousand were put upon property, that property would fall within the same general class of prop-

erty that is subjected to a levy of tax by valuation, and it would all have to be treated alike.

Mr. KERRICK (McLean). I asked a question that could be answered categorically, yes or no.

Mr. SHEPARD. Your statement is not susceptible——

Mr. KERRICK (McLean). My question is this: Would you consider, or would it be your opinion, that in case the legislature of this State should, under the power in that proposal of yours, enact a tax law by which five dollars upon a thousand would have the same effect as the five dollars upon the thousand had under the New York law of which you have spoken, would the Supreme Court disturb a classification made by the legislature of that kind?

Mr. SHEPARD. Such a law could not be set up under the proposed draft.

Mr. KERRICK (McLean). What is that?

Mr. SHEPARD. The New York law could not be set up under the limitations of this proposed draft.

Mr. KERRICK (McLean). I just asked that which I thought was a categorical question.

Now you spoke of a new method of measurement of valuations to arrive at a basis for taxation for certain purposes, and if I remember correctly, you said we should resort for a guide or as an anchor, some place to start from and not get too far away from, the value of real estate; didn't you take that as a basis?

Mr. SHEPARD. I didn't state the new method of this proposed draft, but I adhered to the old method.

Mr. KERRICK (McLean). Didn't you say that would be probably the way the legislature would construe it?

Mr. SHEPARD. This is not a subject for legislative action. This is a constitutional provision, fixing the municipal limitation of indebtedness almost identical with the present so there is no new method set up.

Mr. KERRICK (McLean). What I want to get at is whether I am correct in my recollection. You said in answer to my colleague's question that under the methods employed by the Federal Government to collect income tax, that by the use of such methods, substantially such methods, intangible property could be reached and properly taxed in that State; did you not?

Mr. SHEPARD. Yes. sir.

Mr. KERRICK (McLean). I say so, too. Now, I am talking about the method of getting these taxes paid. It can be done just as well as if the property was visible to the eye under the methods which you have discovered and used second-hand from the Federal Government. Is there any reason, though, why the same methods couldn't discover the intangible property and learn its value for purposes of taxation by valuation? If you can find out for one purpose, can't you find out by the same methods for another?

Mr. SHEPARD. The quetion of discovery?

Mr. KERRICK (McLean). Yes.

Mr. SHEPARD. Now, let me answer your question in my way, if you please. The question of discovery and the question of enforcement are quite two different proportions. We have the possibilities of discovering property, but you can no more bring that property into a general valuation taxation, under this or any other law by valuation, that proceeds rather on the ad valorem basis——

Mr. KERRICK (McLean). How does the Federal Government do that?

Mr. SHEPARD. It doesn't do it.

Mr. KERRICK (McLean). It has done it to the extent, has it not, of getting six billions of dollars out of the people last year?

Mr. SHEPARD. By an income tax.

Mr. KERRICK (McLean). How?

Mr. SHEPARD. By an income tax, but it hasn't done it by a general valuation tax.

Mr. KERRICK (McLean). As a matter of finding the property and realizing the tax, that is solved if we adopt the income tax proposition?

Mr. SHEPARD. Not at all.

Mr. KERRICK (McLean). Suppose you get simply what it should pay as income tax. Now we can, just as well as the Federal government, force payment after we find out what the man's income is?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). Well, that is all.

Mr. SHEPARD. Now, if I may complete my answer as to discovery. That is a very poor aid to the enforcement of a taxation by valuation. Now, personally, in its larger sense, is fluid——

Mr. KERRICK (McLean). A proposition which left it to the legislature to choose either method, either by valuation or upon the income derived from the tangible property, if they should choose the income horn of the dilemma, if you might term it that, it would work all right. In other words, if they were to go after intangible property through an income tax, they would find the property and enforce the tax, wouldn't they, if the Federal Government could do it? You used another expression, and I remember this, Mr. Shepard—you know a good many things that I expect to ask you about that would be valuable information—in speaking of income tax you used the expression, "withdrawal of personal property from its operation;" what was meant by that?

Mr. SHEPARD. I was using that phrase in connection with fixing the debt limitation.

Mr. KERRICK (McLean). Fixing what?

Mr. SHEPARD. The debt limitation, saying, or intending to say, that if we adhered to the present debt limitation of five per cent of the assessed value of property, that is all property, and then the legislature was given power to withdraw some of the property from the method of taxation by valuation, that might disturb that factor or that standard of arriving at a percentage.

Mr. KERRICK (McLean). You didn't mean by that such withdrawal of property from taxation as resulted from the New York law of which you have been talking, the immunity?

Mr. SHEPARD. I didn't mean that that property would be withdrawn from taxation at all, but withdrawn from that method.

Mr. KERRICK (McLean). Now, I understood you to make this remark, use these phrases, I think, where property was being discussed; it is a philosophical statement. You said, "Personal property and persons make the real estate," did you not?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). Also, "Withdraw persons and personal property, and real estate has no value," you said that, didn't you? Isn't that an exact quotation from Henry George where he was arguing in favor of the single tax?

Mr. SHEPARD. I don't know that it is.

Mr. KERRICK (McLean). You didn't get it from him?

Mr. SHEPARD. No, sir.

Mr. KERRICK (McLean). Are you not aware that one of the arguments in favor of the single tax is, "Personal property makes real estate; without personal property real estate has no value?"

Mr. SHEPARD. I don't regard that that impairs, however, its value.

Mr. KERRICK (McLean). You believe it is sound in principle and philosophy?

Mr. SHEPARD. Yes, sir.

Mr. KERRICK (McLean). And it was from that basis that Henry George arrived at his conclusion that the single tax was just, was it not?

Mr. SHEPARD. I wouldn't say that. I am not familiar enough to discuss that.

Mr. KERRICK (McLean). Some mention was made here this morning about a recent decision or decisions of the Supreme Court of the United States in cases going up from Oklahoma and New York. Is it not true that

those cases simply decide that a State cannot, by an income tax law, exempt its own citizens from a certain amount, and in the same law exclude that exemption as to a non-resident that was the question, wasn't it?

Mr. SHEPARD. That may be true, but I only used the Oklahoma income tax law——

Mr. KERRICK (McLean). I will dispose——

Mr. SHEPARD. Senator, if you will permit me, please, to finish my answer. I only used the Oklahoma income tax law and the New York income tax law as illustrations of modern methods set up in their jurisdictions, and now further reverting again to the Henry George system to which you have referred this is diametrically opposed to the theory of taxation proposed by Henry George and his single tax system.

Mr. KERRICK (McLean). Well, then your philosophy is wrong.

Mr. SHEPARD. Oh, no, Henry George might have some fundamental truths in his philosophy, in his work, which we might adopt as our own, or copy it.

Mr. KENRICK (McLean). Now, Mr. Shepard, about these cases in New York and Oklahoma. We are not differing on that at all. New York had certain exemptions in its State income tax for its citizens. It had no such exemption with reference to property owned by non-residents. Oklahoma had an income tax which made no discrimination between residents of the State or non-residents owning property in the State. The Supreme Court held the Oklahoma statute good because there was no discrimination. It held the New York statute bad because there was, and that is all there is to those two cases.

Mr. SHEPARD. There is a little further thought, to which I referred in those cases. You will recall in answer to Governor Fifer's question——

Mr. KERRICK (McLean). I remember that.

Mr. SHEPARD. In regard to the reasonableness of the class established by the statute. The Federal Supreme Court, under the 14th amendment, as I gather from the newspaper reports, declared the New York statute, whether in full or in part I don't know, invalid as tested by the 14th amendment, because of its conflict in classification, and sustained the Oklahoma statute because in harmony with the classification permitted by the 14th amendment; simply using these two cases as illustrative of the test which must be applied to every State law when it comes to set up classes. Of course, if, under this proposed draft, our legislature set up various classes, those classes would have to be tested by the constitutional provisions of our Constitution——

Mr. KERRICK (McLean). Certainly.

Mr. SHEPARD. ——and tested again or subjected to the test of the constitutional limitations of the Federal Constitution.

Mr. KERRICK (McLean). Now, I would like to have your opinion upon another thing in that connection. Supposing now that the legislature of this State should conclude to adopt the income tax plan with reference to taxation of intangible property, and should follow the Oklahoma plan, I mean in respect only to having uniformity as between its citizens and owners of property in the State who were non-residents, would that be a valid tax, in your opinion, under section 14 of the Constitution of the United States, if it were in conformity with the plan of the Oklahoma statute?

Mr. Shepard. That part of it manifestly would be, if the newspaper reports of this morning are correct. It could meet that test, but that is only one test.

Mr. KERRICK (McLean). Now, have you any acquaintance with the Civic Federation of Chicago?

Mr. SHEPARD. Sir?

Mr. KERRICK (McLean). Are you acquainted with an organization called the Civic Federation of Chicago?

Mr. Shepard. Yes, sir, very well.

Mr. KERRICK (McLean). You are an attorney for them?

Mr. SHEPARD. No.

Mr. KERRICK (McLean). Have been?
Mr. SHEPARD. No, sir.
Mr. KERRICK (McLean). Never were?
Mr. SHEPARD. No, sir.
Mr. KERRICK (McLean). No business connection with them?
Mr. SHEPARD. No, sir, except I am on, I think, an advisory committee of the Civic Federation.
Mr. KERRICK (McLean). An advisory committee of that organization?
Mr. SHEPARD. Yes, sir, that is as I recall. I believe I have that honor.
Mr. KERRICK (McLean). You are well acquainted with its membership?
Mr. SHEPARD. I am acquainted with some of the members.
Mr. KERRICK (McLean). Are you acquainted with those members of the federation who are members of this Constitutional Convention?
Mr. SHEPARD. I am acquainted with at least one of them that I recall, and possibly more. I don't know without looking at its list of members.
Mr. KERRICK (McLean). Are you acquainted with the movement which was begun by the Civic Federation of Chicago, beginning as far back as 1909, towards getting the Constitution so amended as to provide for the classification of personal property?
Mr. SHEPARD. I didn't get your question.
Mr. KERRICK (McLean). Were you in the movement as far back as 1909?
Mr. SHEPARD. Oh, I am perhaps familiar in a general way.
Mr. KERRICK (McLean). Did you ever take any part in the work which the Civic Federation says it performed, we will say now, in 1908—"Revived bill for creation of a Special State Tax Commission and successfully urged its re-enactment by the Forty-sixth General Assembly. This bill was approved and the commission appointed." Were you connected with that movement?
Mr. SHEPARD. No, sir.
Mr. KERRICK (McLean). Later on, in 1910: "Laid before the Special Tax Commission data and arguments in support of a constitutional amendment establishing the principal of classification." Did you have anything to do with that?
Mr. SHEPARD. I don't remember that I did. If I did, it was in a very remote degree.
Mr. KERRICK (McLean). Coming down to 1911: "Endorsed the amendment to the Constitution recommended by the Illinois Special Tax Commission and took a leading part in urging its submission by the Forty-seventh General Assembly. Successfully opposed initiative and referendum amendment. Successfully," and so forth. Were you in that movement?
Mr. SHEPARD. Not as a member of the Civic Federation.
Mr. KERRICK (McLean). Well, in connection with it?
Mr. SHEPARD. Not in connection with it. I endorsed that movement independently.
Mr. KERRICK (McLean). Were you before the legislature trying to get it through?
Mr. SHEPARD. No, sir.
Mr. KERRICK (McLean). Now, in 1912: "Joined with other organizations in urging an amendment to article XIV permitting submission of three amendments at a time in order to avoid further constitutional deadlock" Were you in that movement?
Mr. SHEPARD. No, I was not in that movement, but I endorsed the general movement.
Mr. KERRICK (McLean). Coming to this: "With the co-operation of many organizations throughout the State, secured 120,774 signatures to a public policy petition submitting for advisory vote the question of amending the Constitution to permit classification of property." Were you in that?

Mr. SHEPARD. No, I was not in that senator; I was not in any of those.

Mr. KERRICK (McLean). Do you know who composed that advisory board?

Mr. SHEPARD. No, I am not familiar with that; I wasn't in any of those movements.

Mr. KERRICK (McLean). You were not in that. Was it——

Mr. SHEPARD. However——

Mr. KERRICK (McLean). Was it after 1912, after this vote had been had, which is spoken of here?

Mr. SHEPARD. Senator, if you will permit me to finish my answer. I don't recall that as a member of the Civic Federation I took any part in any of those things to which you have referred.

Mr. KERRICK (McLean). Were you at that time a member?

Mr. SHEPARD. I don't recall whether I was or not. Neither as a member of the Civic Federation nor as an individual did I appear before the legislature or elsewhere. However, it is fair to say——

Mr. KERRICK (McLean). Do you recall—— What is that?

Mr. SHEPARD. However, it is fair to say that I endorsed what the Civic Federation did; that is, as an individual, and I endorsed individually those various steps.

Mr. KERRICK (McLean). Did you endorse the proposition which it is stated was submitted to the voters of Ilinois under the public policy act in 1912?

Mr. SHEPARD. I have no recollection of that.

Mr. KERRICK (McLean). Were you, after the vote had been taken, before the legislature working with the Civic Federation of Chicago to have them submit the amendment to the Constitution for which you voted in 1916?

Mr. SHEPARD. I was not before the legislature in connection with the Civic Federation nor in any other connection nor individually with respect to that matter.

Mr. KERRICK (McLean). You were not?

Mr. SHEPARD. No.

Mr. KERRICK (McLean). Do you remember in substance——

Mr. SHEPARD. However, in fairness to the Civic Federation, I should say that I heartily endorse the work that body did. Undoubtedly I felt that approval at the time, and I continue in that approval.

Mr. KERRICK (McLean). Well, that is all right, as far as I know. You spoke about when you were a member. You are not a member now, you say, of the Civic Federation?

Mr SHEPARD. I am a member now.

Mr. KERRICK (McLean). You are a member now?

Mr. SHEPARD. Yes, I am a member now.

Mr. KERRICK (McLean). Do you remember the question submitted in this public policy act in 1912, the public policy questions?

Mr. SHEPARD. No, I don't recall.

Mr. KERRICK (McLean). It pretended to be the forerunner to the amendment which the legislature was asked to pass?

Mr. SHEPARD. I don't recall the details of that.

Mr. KERRICK (McLean). You never saw it before it was voted on?

Mr. SHEPARD. I probably did, if it was submitted to a vote; I probably voted upon it.

Mr. KERRICK (McLean). Do you know who wrote it?

Mr. SHEPARD. No.

Mr. KERRICK (McLean). Do you remember who the commission were that framed the amendment to be voted on?

Mr. SHEPARD. I didn't understand your question.

Mr. KERRICK (McLean). Do you know who composed the commission appointed under Governor Deneen who framed the amendment for which we voted in 1916, and which amendment was defeated; do you remember who the commission were?

Mr. SHEPARD. I know some of the members of the commission.

Mr. KERRICK (McLean). Which ones?

Mr. SHEPARD. I am acquainted with John P. Wilson.

Mr. KERRICK (McLean). Is he a member of the Civic Federation of Chicago?

Mr. SHEPARD. I don't know. I am acquainted with Harrison B. Riley.

Mr. HERRICK (McLean). Is he a member of the Civic Federation?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Are you acquainted with B. L. Winchell, president of the St. Louis & Pacific Railroad at the time; now dead, I believe?

Mr. SHEPARD. No, sir; I am not acquainted with him.

Mr. KERRICK (McLean). Did you know any other members?

Mr. SHEPARD. I don't recall.

Mr. KERRICK (McLean). They were all Chicago members, were they not?

Mr. SHEPARD. I don't think so.

Mr. KERRICK (McLean). All the members of the commission, Mr. John P. Wilson——

Mr. SHEPARD. Mr. Wilson and Mr. Riley are residents of Chicago. I don't recall whether Mr. Winchell was or not; I don't know him. I think I am acquainted with some of the other members of that commission, but I don't recall their names.

Mr. KERRICK (McLean). Is this the proposal which was put before the people in 1916 to decide and say whether they wanted the amendment which followed later:

"Shall the next General Assembly (in order that the people may be relieved of a system of taxation which places a comparatively heavier burden upon the poor man than upon his wealthier neighbor, which is unjust to all who fall under the full force of its operation, and which places a premium upon dishonesty) submit to the voters of the State of Illinois at the next following State election an amendment to the State Constitution providing for the classification of property for purposes of taxation, with taxes uniform as to each class within the jurisdiction leying the same," on which the vote was "yes," 541,189; "no," 187,467; did you ever investigate to know why——

Mr. SHEPARD. Sir?

Mr. KENRICK (McLean). Did you ever consider why anybody should vote against that proposition? Isn't that the proposition that was brought here before the legislature and which was heralded in the newspapers, and which those who were here to induce the legislature to place that amendment before the people represented the will of the people; isn't that the argument that was used before the legislature?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). All the legislature had to do was just to send it out; the people had demanded it?

Mr. SHEPARD. I don't know; I wouldn't say that. I voted for the proposed amendment.

Mr. KERRICK (McLean). Did you do it on the strength of this public policy question?

Mr. SHEPARD. I did it on the strength of the merits of the amendment itself.

Mr. KERRICK (McLean). Yes. That amendment, the Civic Federation would not now endorse, would it?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Isn't it true that the same writers, who were then employed by the Civic Federation, said that it was a splendid thing and all right in all respects, a good thing for the people of Illinois, particularly farmers; and the same writers now admit it would have been a grievous error, almost a fatal mistake for the State of Illinois, if it had become a part of the Constitution?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Are they not right on the other side now?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Do they still stand for classification?

Mr. SHEPARD. I don't know whether they are opposed to that or not.

Mr. KERRICK (McLean). The same persons are standing for classification now who were opposed to it, although they stood for an amendment which it is admitted now would have been almost fatal in its operation in this State.

Mr. SHEPARD. I don't know. I haven't any authority to speak for the Civic Federation. I haven't sufficient knowledge to attempt to speak for it, even if I were authorized. I appear here in an individual capacity solely.

Mr. KERRICK (McLean). Do you know whether or not this public policy act that I have just read was entirely written, word for word, by the secretary of the Civic Federation of Chicago?

Mr. SHEPARD. I didn't understand your question.

Mr. KERRICK (McLean). Do you know whether or not this proposition I have just read about the poor man and the wealthy man, whether or not that entire thing was written by the secretary of the Civic Federation of Chicago?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Do you know whether or not the amendment, the entire amendment which was submitted to the people in 1912, was written by the secretary of the Chicago Civic Federation?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). Do you know whether the report of these alleged commissioners, or these commissioners, of whom, as I understand, the Chicago members were about the only ones who did any active duty, do you know whether or not the report of this commission was written up word for word by the secretary of the Civic Federation of Chicago and submitted to those men down State and elsewhere for their approval?

Mr. SHEPARD. I don't know.

Mr. KERRICK (McLean). You don't know about that?

Mr. SHEPARD. No, I don't know about that.

Mr. SUTHERLAND (Cook). Mr. Chairman, if I may say a word at this time, I think it will save a long line of questions which Mr. Shepard has repeatedly said he could not answer.

I happen to be the secretary of the Civic Federation of Chicago. As I recall it, I was substantially responsible for writing the public policy question of 1912. I had nothing to do with writing the findings of the special tax commission nor with drawing the amendment which this commission, composed of men up State and down State, recommended that the General Assembly submit to the voters of Illinois.

Mr. KERRICK (McLean). May I ask you a question, Mr. Sutherland? I didn't ask these questions directly, you will remember.

CHAIRMAN GALE. Senator, may I suggest——

Mr. KERRICK (McLean). Now that the question has been asked, I will ask Mr. Sutherland——

CHAIRMAN GALE. Senator——

Mr. KERRICK (McLean). Beg pardon.

CHAIRMAN GALE. Senator, may I suggest that Mr. Shepard is here before us, and also other speakers, and I think there should be no debate on this floor between the members of this committee. That can be reserved for some other time. I think the questions should really be addressed to Mr. Shepard.

Mr. KERRICK (McLean). I beg your pardon, but I thought inasmuch as Mr. Sutherland had been indulged to take part in the conversation, I might also speak to him.

Mr. SUTHERLAND (Cook). Mr. Chairman, Mr. Shepard cannot be with us every day. I shall endeavor to be with the Convention, if the Lord

gives me health and strength, the remainder of its days, and will always be at Senator Kerrick's command to answer his questions. I think the chairman is correct and that it is taking Mr. Shepard's time.

Mr. KERRICK (McLean). Very well, I will not press it. I thought as long as you had taken part in the conversation, which I considered a friendly one, that I might go into this.

Now, Mr. Shepard, I thank you for your patience. I think that is all I care to ask you.

Mr. WALL (Pulaski). Mr. Shepard, you spoke a while ago of discovery being one thing and enforcement another. You mean under the present Constitution?

Mr. SHEPARD. Yes, sir.

Mr. WALL (Pulaski). It is easy enough to discover property, but hard to enforce tax against it?

Mr. SHEPARD. Well, I meant farther than that. I made that statement in reference to the application of the Federal income tax law. Generally speaking, undoubtedly that law is enforced, and discovers the property, and property in the State must be reflected in the reports made under that law. It is in that connection that I said discovery is one thing and enforcement under our present revenue law is in my judgment quite another.

Mr. WALL (Pulaski). But under our present revenue law, if property of any kind is discovered, there is no difficulty, is there, in assessing that property?

Mr. SHEPARD. Yes, I think there is; great difficulty arises under our present revenue law.

Mr. WALL (Pulaski). If a mortgage for five thousand dollars were discovered, that is, intangible property, why can it not be assessed?

Mr. SHEPARD. It can be assessed at that time. The effect, however, of that is to drive it out, because it cannot compete with other classes of property.

Mr. WALL (Pulaski). That is rather a reason for classification, is it not?

Mr. SHEPARD. That is a reason for classification, and one of the main reasons for classification, though it doesn't go as far as I think a revenue law should go.

Mr. WALL (Pulaski). The main reason for classification, then, it affords a better method of discovery?

Mr. SHEPARD. It affords a better manner of discovery and enforcement, but I think an income tax, as an illustration, might still be a better method of enforcement than simply classification alone, but at any rate the theory that I beg to suggest is that the legislature be left free to set up these various methods so as to obtain general discovery and a general enforcement.

Mr. WALL (Pulaski). You are in favor, in other words, of a legislative classification rather than a constitutional classification?

Mr. SHEPARD. Yes, sir.

Mr. LINDLY (Bond). Do I understand you to favor an income tax and the exemption of intangible property from other tax?

Mr. SHEPARD. That would depend upon the form that it took. While this draft doesn't permit of exemption in its entirety, however, it would permit of a substitution of one form or another, if the inclusion in the revenue law of all property was made. It might provide or permit the substitution of one in part for another, or the addition of one to another, but it leaves those methods and forms to be worked out by the legislature.

Mr. LINDLY (Bond). Supposing it was part by income tax and part by levy; how would you discover your portion any better to levy on than now?

Mr. SHEPARD. You might not in connection with the income return, but assuming that you could not, if you missed it by valuation, you would catch it by income.

Mr. LINDLY (Bond). You would divide your income tax; because you had levied part of your direct tax, you would levy your income tax that you levied a part by your direct tax, wouldn't you?

Mr. SHEPARD. No, not necessarily; it would depend upon the terms of the statute, and assuming the terms of the statute were reasonable and practical and complete, if you gave a credit for the tax based on valuation, you would cause a disclosure of that property to be made so as to be checked and verified, but that would all depend upon the details of the statute, and the statute could be made water tight and complete.

Mr. Chairman, I regret my poor ability to adequately present this complicated question to this great tribunal. I thank you and this Convention for the honor of an invitation to address this body entering upon its work in that spirit of lofty and unselfish patriotism which is invited by the making of a Constitution for a great State like Illinois. (Applause).

Mr. BRENHOLT (Madison). Mr. Chairman, I just had a couple of questions I desired to ask. I understand he is not going to be with us again.

CHAIRMAN GALE. Are you willing to answer another question or two?

Mr. SHEPARD. Yes, sir.

Mr. BRENHOLT (Madison). The question I had in mind is this: Do you believe that under the present system of taxation a uniform assessment of property is now being made?

Mr. SHEPARD. No, it is manifestly not being made.

Mr. BRENHOLT (Madison). Following that, do you believe under the present system an assessment for a corporation of ten million dollars can be made by a local assessor of a board of review with the knowledge and information they have?

Mr. SHEPARD. I didn't understand your question.

Mr. BRENHOLT (Madison). Do you feel a corporation of 10 million dollars can be assessed by a local assessor?

Mr. SHEPARD. Well, it might possibly be assessed.

Mr. BRENHOLT (Madison). Rightfully?

Mr. SHEPARD. It might be and still it may be inadequately assessed. It is difficult to answer that question categorically. What I mean by my answer, there are various inequalities so numerous as to be almost beyond calculation under our present revenue system, and while one person or corporation might be adequately and properly assessed many others might be outside of fair administration of the revenue law.

Mr. BRENHOLT (Madison). My reason for asking that was this: The assessment as made by the assessor—he probably had 45 or 50 or maybe 60 days to make his entire assessment—for instance in the City of Alton of 25,000 population he is required to go out, and on this year, real estate year he must probably go out to get equal assessments on his books, he is required to return that to the county supervisor of assessments and he is required to go over them in the time he has, and when he is at that work he is the supervisor of assessments and must extend them in his office, and they have to be turned over to the assessor by the first day of June. Therefore I claim there is not sufficient time with the means they have at hand to investigate or to go into the matter of assessing a corporation of say 10 million dollars.

Mr. SHEPARD. Your statement I concur in absolutely and I think that is the experience of every assessing tribunal in the State of Illinois and has been practically since the enactment of the 1870 Constitution. He might perhaps do his work well with one or two, and in compliance with the rule and law of the 1870 constitutional provision and the 1870 revenue law, and while he would do it to a few, then on the run so to speak, he could only do his work inadequately.

Mr. BRENHOLT (Madison). In good faith he would probably do the best he could with the means he had at hand. My reason for saying that is this: I do not believe there is anything brought out at a Constitutional Convention that is more important than the relief or some remedy for the proper taxation of the property in this State.

Mr. SHEPARD. No, I concur in that statement.

Mr. BRENHOLT (Madison). Do you believe that county and State road bonds should be exempt?

Mr. SHEPARD. I have always favored the exemption of State bonds. I have always opposed the exemption of any municipal bond. That, however, is not fundamental. If I own a municipal bond in my judgment I should be subjected to a tax to maintain the State on those bonds, as a part of my contribution in taxes to the State. There is no difference in my mind in principle between the ownership of municipal bonds and the ownership of any other class of securities. I thank you. (Applause.)

CHAIRMAN GALE. We will now listen to the Honorable William F. Struckmann, also formerly county attorney of Cook county.

Mr. STRUCKMANN. Mr. Chairman and gentlemen. You gentlemen are to write a proposal for a State Constitution. Now, A State Constitution can serve but two useful purposes. What are they? First, to say to the legislature and to everybody else connected with the government, this or that you shall not do, and second, to say to those same gentlemen, this or that shall be done, and beyond that a Constitutional Convention has not any business to go.

The difficulty is where to draw the line. Let us see if we cannot find some reasonable rule upon which we can all agree. If you find a prohibition or a command which was good and proper yesterday and will be good and proper tomorrow, and in all human probability will be just as good and proper twenty years hence, you have found something you can place in the Constitution. If you find a rule of action which was good yesterday, but because of changes in conditions of the people, because of the increase in population or the change in the needs of the people will not be good five years from now, you have a question you should leave to the legislative power of the State without any hindrance on your part. Let us apply that test to the question before us. I was asked to come down here and talk on the question of taxation.

Now, the question of taxation while it is a large question is only a small part of your financial question that you have to solve. The greater part of the financial question is not the bringing in of money into your treasury, but how it is going to be spent or put out. I shall confine myself to the question of taxation.

First, I shall take up the question of bonds. Now, perhaps the most important and the most vital power that may be conferred upon municipal corporations is the power to issue bonds. It is absolutely essential that there should be speedy and efficient methods of collecting the revenue to pay the principal and interest on those bonds as the principal and interest becomes due. That necessity existed 40 years ago, it is here today and that necessity will be just as important fifty years hence as it is today, and that is a question that you can cover in your Constitution. There is only one way to get that and that is by taxation, and you should place in your Constitution a provision similar to the provision that is there now. Before or at the time that bonds are issued, the body issuing the bonds shall provide for an annual tax levy sufficient to pay the principal and interest as it becomes due.

Now, next, I am firmly of the opinion that one of the most dangerous things to place in the hands of any municipal authority is a sinking fund. I know that the City of Chicago has refunded one bond issue two different times. It should not be. I am opposed to a sinking fund. A sinking fund always has been and always will be a dangerous thing for two reasons: First, you cannot get as much interest on your sinking fund as you are paying on your bonds, your income is less than your outgo. Second, human nature is human nature and public officials are public officials, and they have all the pressure back of them that political organizations will bring, and I do not know of any municipal corporations up in my part of the country that has ever had a sinking fund intact when the twenty years rolled around when it was necessary to pay the bonds. I believe that you should get away from that. There is only one way to do it. Prohibit the

issuing of any bonds unless it is a serial bond payable in annual installments, payable out of the tax levy each year, so when your money comes in, your principal and interest is due, you will have to pay it, and you will have no trouble so far as refunding is concerned. That brings me to the next question:

The present Constitution contains a provision which makes it impossible to borrow money for a period longer than twenty years; that has no business in there. Whether or not a bond shall run five, ten, twenty, or fifty years depends altogether on the financial conditions at the time you issue the bonds, and those conditions change from time to time. If you have a provision that you must retire the bonds in annual installments you will never have any trouble in meeting the payments on your bonds as they fall due. It makes no difference whether you retire them in twenty annual installments or more. And there is one other question in connection with the bonds, and that is all I care to say on that question before I pass to the other questions.

Any business concern, any man who will in season and out of season spend more money than his income and will mortgage his property will eventually face bankruptcy. That same rule holds good as to municipal corporations. I am opposed to the issuing of any bonds to pay current expenses. The trouble has been, especially in the larger cities, that our public officials have gone beyond their income, then they have a floating debt and when they get up to their ears into floating debt a bond issue results, and the City of Chicago voted a little over two million dollar bond issue a year ago to take care of a floating indebtedness that was created about two years ago, when everybody knew the City of Chicago could not pay it.

Make it impossible to issue any bonds to take care of your current expenses. Make a provision in your Constitution now that that shall not be done, then put in a qualifying clause that as to bonds now existing, when they become due you may issue refunding bonds. They must be serial bonds and eventually the thing will wash out.

Now, with those changes I think the present article in the Constitution is good. Let me make one other suggestion. If you follow—if you adopt that plan making it possible to issue bonds only for permanent improvements or character of like expenses you can very well pass up the question of the limitation of bonded indebtedness to your legislature. I see some gentlemen here who are members of the legislature, either the House or the Senate, and I feel that they are just as honest and just as consciencious and just as solicitous for the welfare of the people and the public when they sit in the Senate over there and sit here as a member of the House as they are today sitting in the Constitutional Convention. You are all elected by the same people and your legislature is just as honest as you are, gentlemen, and on some things you can trust them, and I think you can trust them and leave that question to be determined by them because a five per cent limitation yesterday may have been altogether too much and a five per cent limitation twenty years hence may be altogether too small. Populations increase. Needs and demands change and increase, and why should not the borrowing power change as your needs change?

Now, before I pass to the next subject I will pause and I will answer any questions that may be asked by any of you on the question of bonded indebtedness.

Mr. JARMAN (Schuyler). How about tax warrants, Mr. Struckman?

Mr. STRUCKMANN. Tax warrants are not bonded indebtedness. That is sale of a tax actually levied, and it never has been indebtedness. It is a bill of sale just the same as a bill of sale for a cow that has been sold. It is not an indebtedness.

Mr. JARMAN (Schuyler). Should they permit it?

Mr. STRUCKMANN. Should they permit it, to issue tax warrants? Yes, sir.

Mr. HAMILL (Cook). Do you recall when the limitation upon the power of the municipality first appeared in our constitutional law?

Mr. STRUCKMANN. I can not recall now.

Mr. HAMILL (Cook). Doesn't that appear in any Constitution before that of 1870—It has never appeared in any Constitution before that of 1870?

Mr. STRUCKMANN. That is my recollection.

Mr. HAMILL (Cook). Do you recall the question of municipal indebtedness before 1870?

Mr. STRUCKMANN. No.

Mr. HAMILL (Cook). Isn't it a fact many municipalities in the State issued their bonds and many municipalities defaulted on their bonds before 1870?

Mr. STRUCKMANN. Yes.

Mr. HAMILL (Cook). That is between 1847 and 1870. In view of that history and the result of the limitation included in the Constitution of 1870, don't you think that limitation was wise?

Mr. STRUCKMANN. No, sir. It was wise in the Constitution of 1870.

Mr. HAMILL (Cook). But you have no fear of a possible recurrence of the conditions existing between '47 and '70?

Mr. STRUCKMANN. Not with a provision in the Constitution, that you can not borrow for current expenditures.

Mr. HAMILL (Cook). But the indebtedness incurred by the municipalities between those years was not for current expenses.

Mr. STRUCKMANN. I don't know.

Mr. HAMILL (Cook). Were they not almost uniformly, if not uniformly, for aid in internal improvements?

Mr. STRUCKMANN. Yes, sir.

Mr. HAMILL (Cook). If the municipalities were allowed to own their own public utilities and there was no limitation upon their debt, would you fear the possibility of large municipal debts for public utilities?

Mr. STRUCKMANN. You have provision in the present Constitution, and I presume you would put provision in the new Constitution, prohibiting the expenditure of public funds for the improvements of the character you mentioned; railroad aid bonds and things of that kind.

Mr. HAMILL (Cook). You would get the protection by limiting the purposes for which funds could be expended?

Mr. STRUCKMANN. Yes, sir.

Mr. HAMILL (Cook). You would also get it by serial payment?

Mr. STRUCKMANN. Yes, sir.

Mr. HAMILL (Cook). If I understand you, did I understand you to say you would not put the limitation on bond issues in the statute but would give the legislature the authority to limit the bond issues of cities?

Mr. STRUCKMANN. I said I would not put a limitation in the Constitution. I would leave that question to the legislature.

Mr. HAMILL (Cook). Would you put in the Constitution the legislature had the authority to limit them?

Mr. STRUCKMANN. I don't need that in. The legislature has that power unless you say they shall not do it.

Mr. HAMILL (Cook). Would you limit the legislature?

Mr. STRUCKMANN. No, sir.

Any other questions on the bond issue?

Q. Do you believe the Constitution ought to provide that all bonds issued have to be a serial bond only?

Mr. STRUCKMANN. Yes, sir; I would issue nothing but a serial bond.

Q. What I mean is, do you believe the Constitution ought to do that, or the legislature?

Mr. STRUCKMANN. The Constitution.

Q. Thereby doing away with the flat bond?

Mr. STRUCKMANN. Yes, sir.

Q. As you stated in various municipalities, for instance, the City of Chicago, they have been refunding once, twice and probably oftener?

Mr. STRUCKMANN. Yes, sir. There was one issue in the City of Chicago was refunded two times, wasn't it? You know it was.

Q. Yes. That would give you a larger bonding power if that was paid up.

Mr. STRUCKMANN. Yes, sir.

Q. And by refunding it the people can not issue bonds for new improvements because they have already used it up and still the taxpayer is paying the taxes.

Mr. STRUCKMANN. The taxpayer has paid those bonds twice and will pay them the third time before they are retired.

Q. Now, in regards to the limit of time in the issuing of bonds. Do you think it might be dangerous if you extended that to a period of thirty, forty or fifty years?

Mr. STRUCKMANN. No, sir.

Q. You don't think it would?

Mr. STRUCKMAN. No, sir.

Q. Make the provisions just the same annually, one-twentieth or one-fiftieth to be paid with interest?

Mr. STRUCKMANN. If you couple it up with annual installments.

Q. And issue no bonds for current expenses?

Mr. STRUCKMANN. No bonds for current expenses.

Q. In the event of an emergency arising, how would you go about to remedy it?

Mr. STRUCKMANN. Let the legislature give you authority in case of emengencies to levy extra taxes.

Mr. MILLER (Cook). Supposing you had a long time bond of fifty years to pay for an improvement that lasted only 25 years, wouldn't that be on the same theory as paying current expenses?

Mr. STRUCKMANN. I presume public officials, and if not the public officials the people who buy the bonds will use common, ordinary sense when they issue and buy bonds, and I presume a fifty-year bond to pay for an improvement that will wear out in twenty years will not be issued.

Mr. MILLER (Cook). They do issue bonds you say now to pay for current expenses?

Mr. STRUCKMANN. Yes, they do do that.

Mr. MILLER (Cook). Would that be any more foolish, to issue a fifty-year bond for an improvement worn out in 25 years, than to issue a bond for current expenses?

Mr. STRUCKMANN. No. At least in part it would not be current expenses at all.

Mr. MILLER (Cook). What is that?

Mr. STRUCKMANN. It would not be current expenses.

Mr. WILSON (Cook). What is the objection to the refunding power?

Mr. STRUCKMANN. I don't get you.

Mr. WILSON (Cook). What is the objection to refunding?

Mr. STRUCKMANN. My objection to refunding?

Mr. WILSON (Cook). Yes, sir.

Mr. STRUCKMANN. My objection—I think bonds that are not paid when they become due, if you haven't the money you must refund. Now, what is my objection to a sinking fund, that is the question.

Mr. WILSON (Cook). Answer it that way, if you want.

Mr. STRUCKMANN. I will answer it that way. My objections to a sinking fund are two; first, your bonds bear interest, and the interest that your bonds bear is always greater than the interest that you collect in your sinking fund. Second, the sinking fund furnishes a convenient fund for the illegal expenditures of monies, and as a rule your sinking funds are dissipated and they are not used to retire the bonds.

Mr. WILSON (Cook). I beg pardon. That involves dishonesty in management.

Mr. STRUCKMANN. Yes, it does.

Mr. WILSON (Cook). At least the opportunity for it.

Mr. TRAEGER (Cook). If there is a five million dollar bond issue become due on the first of July, you paid them off, they call for par and interest; you have another bond issue, if you sell those five million dollars upon the market they might probably bring 90, 92 or 93?

Mr. STRUCKMANN. It depends upon the condition, of course.

Mr. TRAEGER (Cook). That would be a great loss to the city?

Mr. STRUCKMANN. Yes.

Mr. TRAEGER (Cook). And by paying them off annually, that would protect the taxpayer and everyone.

Mr. STRUCKMANN. Yes. Now, might I pass to the next?

Mr. BARR (Will). I was just wondering what would there be to prevent the issuing of a bond issue to take care of a serial as it became due, for instance, serial bond issue due every year, of re-issuing another serial to take the place, the proceeds of which would buy the serial at maturity?

Mr. STRUCKMANN. If you have a serial bond and a tax every year to pay the interest on the whole, and the installments that become due, you are not very apt to use that money for other purposes because the holder of the bond will demand payment, and it will have to be met, and experience has shown that a serial bond is very rarely if ever defaulted.

Mr. BARR (Will). I don't mean a default on the bonds, but the point I am making is whether or not there might not be a new issue to take care of the series that became due.

Mr. STRUCKMANN. There should not be a re-issue of the serial that becomes due. That is one of the bad things in the present system. A taxpayer should not be obliged to pay twice for one indebtedness.

Mr. BARR (Will). Your idea would be that the serial bond issue should be so provided, or the constitution should so provide that there could be no bond issue made during the life of the serial issue to take up any part of that issue until the entire maturity, and it must be all paid out of taxes?

Mr. STRUCKMANN. My idea is there should never be issued any bond to take up a prior bond except as a bond may be in existence or outstanding at the time of the adoption of the Constitution, but from the time of the adoption of this Constiuion let no bonds be issued unless you provide for payments, and do not permit the issuing of a new bond to take care of a bond that was issued.

Mr. BARR (Will). Then you would go farther and provide not only that all municipal bonds should be serial bonds, but that no issue should be made during the life of that serial bond issue to take up any of the series that became due?

Mr. STRUCKMANN. That would follow. I am not speaking now as of the exact language that should go in, or state it.

Mr. BARR (Will). Yes, sir.

Mr. STRUCKMANN. But that is the principle upon which I am working.

Mr. WILSON (Cook). Suppose there was an issue of $25,000,000, some demand should be made on the cities——

Mr. STRUCKMANN. I cannot understand a word you say.

Mr. WILSON (Cook). There was no money there, no money from taxes or any other source, wouldn't your purpose prevent an improvement being made if there was no money to be received from taxes, and no power for refunding?

Mr. STRUCKMANN. I can say this as to existing bonds——

Mr. WILSON (Cook). That doesnt' answer——

Mr. STRUCKMANN. Let me finish now. As to existing bonds I would permit a refunding bond issue, but as to any bonds which shall be issued after the adoption of this Constitution there shall be no refunding bonds. You get your money once when you sell your bonds the first time and build your improvements out of that money.

Mr. WILSON (Cook). Tax levy for the payment is made every year.

Mr. STRUCKMANN. The tax levy every year annually.

Mr. WILSON (Cook). Consequently you need no refunding bonds.

Mr. STRUCKMANN. Then you don't need any refunding bonds.

Mr. MIGHELL (Kane). Supposing the rate of interest would be reduced, wouldn't it be wise to have the privilege of having refunding bonds in order to get the reduction?

Mr. STRUCKMANN. Do you think you can ever float a bond issue and say a municipality at its pleasure will reduce the interest on it? That will answer that question.

I believe that no taxes should be levied by anybody except corporate authorities, and that no taxes should be levied for any purpose other than corporate purposes, and that is the provision in the present Constitution and I think you ought to leave it in there.

Any questions on that?

I will pass to the next subject.

There is in the Constitution at the present time one limitation upon the power of a municipal corporation to levy taxes, just one, and that is the county. As to all other municipal corporations in this State the legislature has absolute power to say to them what their rate of taxation shall be, and every legislature can change it. There is no rhyme or reason why there should be a limitation upon counties. County officials are just as honest as any other officials, and the rate of taxation that a county may be permitted or required to levy will depend altogether upon the needs of the people, and as those conditions or needs change from time to time why tie upon the legislature that provision that counties shall not levy more than 75 cents on the dollar. I would take it out. I think you can trust your legislature with that question.

Mr. HULL (Cook). What is the explanation of that?

Mr. STRUCKMANN. I don't know. It is a long while since I read the constitutional debates.

Mr. GREEN (Champaign). Bonds issued by counties to build railroads. That is the reason it was in there.

Mr. STRUCKMANN. They used to do it. It does not serve any useful purpose. Leave it out. What is the use?

Now, I am coming to the question of exemptions. I have some very pronounced ideas on that that I will not advocate here because I know most of you will tell me I am crazy, but there are some things that I desire to say.

I believe that you ought to go slow in exemptions. I believe that you should determine what properties should be exempt and put it in your Constitution and take away from the legislature all power to exempt. Put a self-executing provision in your Constitution. I believe this, that any corporation organized under the laws of this State not for pecuniary profit that assumes and takes upon itself a burden that otherwise would be a public burden should have recognition to the extent of exempting its properties from taxation. Of course, the property of the United States Government is exempt. You should exempt public properties as long as those public properties are not in competition with private business. Now, further than that, that is all I care to say on exemptions, because that is a question of policy and it is not a question of principles at all. It is simply a question of what will you exempt and what will you not exempt. That is a matter of favor. That is not a matter of principle.

Any further questions on that?

Mr. BARR (Will). Just one. Why would you feel like trusting the legislature with reference to the matter of limitations yet would not be willing to trust the legislature as to exemptions?

Mr. STRUCKMANN. Because the question of tax rate limitations primarily is a matter which comes to you from public officials that they want more money. The other matter, the question of exemption, is purely and simply a matter of favor to private property owners. That is the reason why. It may be a good reason or a bad one.

Mr. TRAEGER (Cook). Do you believe that a municipality or the municipality should be given authority to issue bonds for the purchase and

operation, for instance, of public utilities, without making them a lien upon the property of the City of Chicago, but make the street car companies, or whatever it may be—make it a lien upon that property?

Mr. STRUCKMANN. That is not a constitutional question. That is a matter which should be addressed primarily to the legislature. If you ask me what I think about it personally, I would say this, that so far as my own ideas are concerned I would never be called upon to answer that question because I am opposed to public ownership of the kind you propose. I would not permit it.

Mr. SUTHERLAND (Cook). In that same connection, supposing that this Convention should see fit to submit to the voters a provision as to the indebtedness of the municipalities substantially like the present provision, that is, some definite percentage of the valuation of properties as a limitation; with that limitation applying only to bonds for general purposes. Would you think it was desirable to stop there or to provide that in case of sentiment or economic need in future years should develop and compel demand for public ownership there might be issued in addition and outside of that bonds for the financing of public owned bonds or properties.

Mr. STRUCKMANN. If I were to agree that a city should go into the private business of running a street car system I would say, bond your system but do not bond your tax levies, limit your lien to your railroad system.

Mr. CORCORAN (Cook). As a matter of fact would there be a market for those bonds?

Mr. STRUCKMANN. I don't know whether there would or not. I know that the City of Chicago has no trouble in selling liens on its water receipts. That is a private business.

Mr. CORCORAN (Cook). Yes, but the street car system, you have to sell liens on the entire purchase price of the street car system.

Mr. STRUCKMANN. Those are my ideas for whatever they may be worth. They may not be worth anything to you gentlemen. That is the way I feel about it, but that is not a tax matter.

Mr. TRAEGER (Cook). Do you believe that the water works of the City of Chicago as a municipally owned proposition has been successful?

Mr. STRUCKMANN. I don't know whether it has or not. I have not looked into it sufficiently, but I do know it is a private business in competition with private business.

Mr. TRAEGER (Cook). In other words, if you issue bonds you make it a lien upon the property that you were operating and not a burden upon the taxpayers?

Mr. STRUCKMANN. Yes, sir; just the same as the special assessments.

Mr. DAVIS (Cook). I don't know that I ought to let your statement go unchallenged, that you would favor in case of municipalities acquiring public utilities of limiting the responsibility of the city only to the extent of the particular property which it takes over. As things go, would you not consider that a fraud upon the purchasing public, would you not consider it a fraud if you put out securities which in substance had no obligation of the city or property in it but was payable altogether out of the particular property which the city was taking over. I was wondering if you considered that phase of it. Would you favor a bond issue, the payment of which would be limited to the particular property in question and to nothing else?

Mr. STRUCKMANN. I assume if the City of Chicago gets the power to buy the street car system of the City of Chicago and if it does buy it, it won't pay more than it is worth, and if it does not pay more than it is worth it does not commit fraud when it issues bonds to that value.

Mr. DAVIS (Cook). Let us follow a little further. Those bonds can be paid out of the operation of that system.

Mr. STRUCKMANN. Yes, sir.

Mr. DAVIS (Cook). Supposing that system is not being operated along profitable lines, supposing as a matter of political question a rate of fare is fixed which does not allow the payment of the serial maturities and interest, what about the security holders which have taken these securities which

at the time being represented the value of the property, but the property has become depreciated on account of the manner in which it is operated?

Mr. STRUCKMANN. They are in the same position as the security holders of any other business concern that goes bankrupt.

Mr. DAVIS (Cook). We have had that answer on this very floor, but is it a correct answer? There is in your method of financing a municipality, an absolute limitation upon the resources of the municipality which acquires it. In the case of private ownership there is not any limitation. All the resources of the corporation are back of the bonds, whatever they are.

Mr. STRUCKMANN. So?

Mr. DAVIS (Cook). Yes.

Mr. STRUCKMANN. Always? What about the national banks?

Mr. DAVIS (Cook). Let us stick to municipal public utilities.

Mr. STRUCKMANN. Well, you and I don't agree on that subject.

Mr. DAVIS (Cook). Seemingly not.

Mr. STRUCKMANN. I am firmly of this conviction, if the city goes into a private business, the private business should be kept separate and distinct from its public business, from its governmental functions.

Mr. DAVIS (Cook). You are saying the same thing in substance.

Mr. STRUCKMANN. Yes, that is my theory. If you go in, go in on the same plan anybody else goes in.

Any other questions on that line?

Now, one other very simple question to my mind is this:

If I were writing a Constitution for you I would put into that Constitution a provision similar to the provision now that all delinquent taxes should be returned to some officer authorized to collect State taxes, and then I would put in a provision requiring him to apply at a term of court and in a court fixed by law so that it would not be necessary to publish the delinquent list, for the purpose of obtaining jurisdiction, enter a judgment for sale against delinquent lands and lots. The publication of that delinquent list is an expense that has no jurisdiction of any kind except to furnish gratis to the tax buyers convenient records by which they may buy. It does not help the property owner a particle. He never sees it. All that it does to him, it places additional burdens on him. I would have the statute, the legislature fix the court, fix the term so that everybody knows on that day in that court the county collector will apply for judgment for sale against all delinquent lands and lots, and everybody take notice.

Mr. BARR (Will). You would have no service?

Mr. STRUCKMANN. I would make the statute its process. That is just the same process as the revenue law is process so far as the action of the board of assessors is concerned. The law says they shall fix the values as of the first day of April, and that is process, and I would have the same kind of law in regard to applications for sales.

Any questions on that?

Now, we have heard a good deal about classifications of property. My friend Shepard and I have had many discussions and many disputes on some of these things. We have worked together for 20 years or more on tax matters. We do not agree on a number of things.

Real estate will never run away. It is there. The building is on it, it is there. You can see it. You can touch it. It always has a permanent location. The improvements, of course, may be burned down, then it has not any location, or it may be moved away and it has another location but you can always find it. I believe in assessing real estate by valuation as it is done under our present system. I have always felt that any theory and assessment by valuation of real estate and personal property was the right thing provided it can be carried out. I have come to the conclusion from my experience of 20 years in tax matters that our present system of taxation of personal property which requires an assessment by valuation makes prejurers and law breakers out of men and women and does not produce the revenue that it ought to produce. It is not a theory. It is a condition that confronts us, and I think the time has come when we should try some other method and see if by some other method we can not get more taxes out of our personal property.

I do not know that I can suggest any method that will be successful. Nobody can tell, you don't know, but it is up to somebody to try it, and if one plan does not work try another one until you find one that will work. You know today the taxation by valuation does not work. I can—let me tell you of some of the experiences that we have in Cook county. The question has been asked here today whether or not an assessor, a local assessor, could assess a fifty million dollar corporation just as well as anybody else. Of course he can. A man elected in Cook county, or a man elected in Cairo is just as honest if he is elected to the board of assessors and the board of review as if he is appointed on the State Tax Commission. The fact he is appointed on the Commission does not make him more competent than the man elected or appointed as assessor by any means. It all depends on his ability to find things, and the larger the field the more he does. The Tax Commission is all over the State.

But let us go back. We have in Chicago, and I presume you have in the larger communities in the State, trust funds that have been created by testators, by men in their wills and other instruments, funds set aside to take care of the orphans and widows. Usually they are in the shape of notes secured by mortgages, and if they draw a high rate of interest they draw 7 per cent, because that is as far as it can go. I believe that it is absolutely wrong that that class of personal property should pay six or seven or eight per cent on its assessed valuation and the same rate that other personal property does that is engaged in business where it will produce forty and fifty per cent returns every year, and therefore I have come to the conclusion that it may be well to confer power upon the legislature of this State to classify personal property for purposes of taxation, and to give them absolutely free hand as to the kind of classification that they will make, and after all is said and done if you lose taxes on personal property you gain it some other way, and if the taxpayer pays money, pays taxes it comes out of his pocket; if he pays it in the shape of personal property tax he does not have to pay it in the shape of real estate tax, and if he pays it in the shape of real estate tax he does not have to pay it in the shape of personal property tax.

I feel that an indirect system of taxation of personal property, some kind of an indirect system—I am not advocating any particular kind—possibly a stamp act would be all right, would produce better results than the present methods and I will be free to confess that possibly the method that I suggest is not the method that would appeal to a man's reason, but in practice I think it will work out better. I have always felt that one of the most equitable taxations in this State is the tax of the charter lines of the Illinois Central Railroad. They never get away. Notwithstanding the fact that all the money goes into the State treasury, and everybody, every taxpayer in the State gets the benefit, because if the money would go in there your State rate would not go up, that is all, and you can twist and turn your taxation question which ever way you want, but there is one way to get money, that is dig down in your pocket and wring it out, and it does not make any difference what kind of a system you adopt; and another thing I want to say to you is that you can not legislate honesty and common decency in a man. They have to come in some other way than by legislative action. You will always find people who evade taxes no matter what kind of a system you adopt, so I feel the time has come that you should give power to the legislature to try some other experiment in the matter of personal property taxation.

Now, any questions on that?

Mr. LINDLY (Bond). You said that it was one of the reasons why you thought that there ought to be a difference on intangible property and tangible property on account of trust fund.

Mr. STRUCKMANN. I did not say anything about tangible and intangible properties.

Mr. LINDLY (Bond). Well, you said personal property. Is that what I understand?

Mr. STRUCKMANN. No, I said notes secured by mortgages.

Mr. LINDLY (Bond). Notes and bonds.

Mr. STRUCKMANN. Trust funds.

Mr. LINDLY (Bond). I did not know you were so particular about it. It is one and the same thing, isn't it?

Mr. STRUCKMANN. No, sir.

Mr. LINDLY (Bond). Well, notes and bonds. You say they ought to be classified?

Mr. STRUCKMANN. Yes.

Mr. LINDLY (Bond). Suppose this case: Suppose that you and I had one hundred thousand dollars.

Mr. STRUCKMANN. That is a pretty violent supposition at this end here.

Mr. LINDLY (Bond). And it was in real estate and you wanted to put that in a trust fund for your children and you sold yours and put it in bonds and notes, and if I had any children I would put my land in such condition that they could not sell it but get the returns from it. Now then, you want to tax the mortgages and bonds that were put in trust for your children at a lower rate of interest than the land I put in trust for my children.

Mr. STRUCKMANN. Yes, sir.

Mr. LINDLY (Bond). Why?

Mr. STRUCKMANN. Because of the difference in earning capacity.

Mr. LINDLY (Bond). Then why did you sell it? Why did you put it in notes and bonds?

Mr. STRUCKMANN. I put it in bonds——

Mr. LINDLY (Bond). To avoid paying taxes?

Mr. STRUCKMANN. No, sir.

Mr. LINDLY (Bond). That would be the only conclusion.

Mr. STRUCKMANN. You would probably leave your real estate to your children because they knew how to take care of it. I would probably put mine into bonds secured by mortgages and put it into a trust fund because my children did not know how to take care of it. Your children could earn more on their farm than mine could, and therefore I would be compelled to place my stuff in such a position that it could not compete with yours in earning capacity.

Mr. LINDLY (Bond). You would lessen the tax according to the ability of the children.

Mr. STRUCKMANN. Yes, sir.

Mr. LINDLY (Bond). You would have quite a job in this State, I think.

Mr. TRAEGER (Cook). How would you handle monies in banks, for instance, a savings account? Here is a man who is toiling, and by fives and tens probably accumulates a sum of money, for argument's sake, let us say, two thousand dollars. He receives on that 3 per cent interest. He is assessed for two thousand dollars. He pays on one-half, which would be one thousand dollars. For easy figures say the rate was $6 a hundred.

Mr. STRUCKMANN. He pays twice as much tax as he gets interest; that is what you mean?

Mr. TRAEGER (Cook). He pays more taxes than the interest he receives from the bank.

Mr. STRUCKMANN. Yes, sir.

Mr. TRAEGER (Cook). How would you remedy that?

Mr. STRUCKMANN. That is one of the reasons why personal property should be classified for taxation. You should encourage accounts in savings banks.

Mr. TRAEGER (Cook). The other way it is to encourage thrift.

Mr. STRUCKMANN. Yes, sir. Any other question?

Mr. GORMAN (Cook). I would like to have your views on the subject of taxing the bachelors.

Mr. STRUCKMANN. I am not a bachelor so I could not answer that.

Mr. GORMAN (Cook). We are considering that subject in the form of a proposal. That is why I asked.

Mr. STRUCKMANN. Soak them, soak them all you can soak them.

Mr. DEYOUNG (Cook). That is Mr. Cruden's proposal.

Mr. STRUCKMANN. Now, I think I have exhausted the question of taxation.

Mr. CRUDEN (Cook). Have you any objections to the exemption of a small amount of money in the way of personal property, in the way of household goods? There was something said by Mr. Shepard with reference to that.

Mr. STRUCKMANN. The question of small exemptions for personal property taxation, as long as you have a system of taxation by valuation, I would not bother about it because the assessor exempts it anyway. If you adopt any other system, why, it is not going to affect you a particle. In principle I think it is wrong to exempt any property from taxation of some kind. Everybody should contribute something if he has anything upon which to contribute.

Mr. CRUDEN (Cook). By what authority do they exempt now?

Mr. STRUCKMANN. They haven't any authority. They just do it.

Mr. CRUDEN (Cook). You would not have any objection to legalizing that action, would you?

Mr. STRUCKMANN. I would not care what you do about that. That is a small matter, that has very little to do with the question. Any other questions?

Mr. WALL (Pulaski). I would like to ask you how many classes of property would you think should be made, expediently?

Mr. STRUCKMANN. I don't know. That would depend altogether upon conditions as they arise from time to time. I would leave that to the legislature to determine at the time when the time comes. One classication may be proper today and ten years hence it may be altogether different, and that is one of the reasons why you can not put in a hard and fast rule in the Constitution by which you shall classify. You must leave that to the legislature.

Mr. WALL (Pulaski). That is your principal reason?

Mr. STRUCKMANN. Yes; that is my principal reason.

Mr. WALL (Pulaski). Might there not be danger if the legislature was permitted full and unlimited power to classify from time to time of so confusing the public mind, the taxpayer as for him to hardly know from year to year the manner, the amount of taxes he would have to pay, and isn't there danger also of the legislature making fundamental mistakes along the line of the income included of various kinds that might be susceptible of taxation whereby a great injustice would be done if that were permitted, if they are given unlimited power to classify?

Mr. STRUCKMANN. There is just as much danger that the legislature would go wrong as there is danger you gentlemen will go wrong here. Wherever power is delegated there is danger of the abuse and misuse of that power, but because there is danger that is no reason why the power should not be delegated.

Mr. WALL (Pulaski). Do you know how many states classify through the Constitution?

Mr. STRUCKMANN. I do not.

Mr. WALL (Pulaski). Are there any?

Mr. STRUCKMANN. I don't know.

Mr. WALL (Pulaski). Are there 15?

Mr. STRUCKMANN. I can not tell you.

Mr. WALL (Pulaski). Do you know how many states classify property?

Mr. STRUCKMANN. I can not tell you that. I have not looked into that.

Mr. GREEN (Champaign). Do you regard the power to tax as one of the inherent powers of government independent of affirmative constitutional grant?

Mr. STRUCKMANN. Yes, sir.

Mr. GREEN (Champaign). That being true then, the only purpose of any provision in the Constitution is certain limitation, or are the limitations created against that inherent right of sovereignty?

Mr. STRUCKMANN. Limitation and mandates.

Mr. GREEN (Champaign). Do you think the Constitution should contain mandates notwithstanding the right exists independent of Constitutional grant?

Mr. STRUCKMANN. Yes, sir.

Mr. GREEN (Champaign). I would be glad to have you explain.

Mr. STRUCKMAN. I believe the Constitution should contain a mandate that you levy a tax at or before the time you issue the bonds sufficient to take care of the principal and interest as it becomes due. That is one mandate.

Mr. GREEN (Champaign). That is a condition of the probability that bonds will be issued.

Mr. STRUCKMANN. Yes.

Mr. GREEN (Champaign). Do you think there is any relation between the limitation element of bonded indebtedness and the number of individuals or per capita of the municipality issuing the bonds, that is the population of the municipality, does it have any relation to the limitation of the amount of bonded indebtedness regardless of the question of the amount being limited by the value of the property?

Mr. STRUCKMANN. I think this, that the needs and necessities of the people will increase as the population increases, and as the needs and necessities increase along with it will increase the necessity of taxation and bonding power. You can not separate people from your taxing system.

Mr. GREEN (Champaign). That, the larger the population grouped in any particular area the greater the necessity for bonding power?

Mr. STRUCKMANN. Yes, sir.

Mr. GREEN (Champaign). Now, that being true, bonds, of course, are issued then upon the direction of the electors of that particular area, whether directly or by representatives. I take it that is true, isn't it?

The electors have the responsibility for creating the bonded indebtedness, do they not?

Mr. STRUCKMANN. That depends upon your statute.

Mr. GREEN (Champaign). Do you think they should have?

Mr. STRUCKMANN. I think they should.

Mr. GREEN (Champaign). Well, assuming that is true, have you any suggestion that would meet this difficulty; it is conceded that in your congested city a small proportion of the people are taxpayers, yet each individual has an equal voice from certain—well, has an equal voice presumably either by representative, or direction, in the creation of bonded indebtedness. Is there any way to fix the burden against the elector independent of a valuation that could be worked out by Constitutional limitation?

Mr. STRUCKMANN. That is a double question. I can not answer a double question.

Mr. GREEN (Champaign). Pardon me?

Mr. STRUCKMANN. That is a double question that can not be answered. If you will separate your question I will answer it. Can a system be contrived whereby the bonds will be paid other than by taxing?

Mr. GREEN (Champaign). In part at any rate.

Mr. STRUCKMANN. Is that part of it?

Mr. GREEN (Champaign). Yes, sir.

Mr. STRUCKMANN. No, sir; I would require taxation under all conditions, never any other way, because that is the only safe way. Now then, what was the other?

Mr. GREEN (Champaign). Assuming six hundred thousand people affirmative caused a bonded indebtedness to be created which will be paid by sixty thousand people, have you any suggestion other than responsibility brought home to the other five hundred and forty thousand people who

created the debt but who do not contribute to the payment of the protection of the sixty thousand that do pay it?

Mr. STRUCKMANN. Increase the rents to the other. Let the property owner increase his rents to the tenants.

Mr. GREEN (Champaign). Indirectly they have to help.

Mr. STRUCKMANN. Yes, sir.

Mr. GREEN (Champaign). Do you believe there should be any Constitutional recognition of the fact that the right of an elector to create the debt should carry with it some financial responsibility to pay it or contribute to its payment?

Mr. STRUCKMANN. I think that matter should be left to the legislature; it is not best in the Constitution.

Mr. GREEN (Champaign). You do not think there should be any protection to the property owner in the Constitution?

Mr. STRUCKMANN. No, sir.

Mr. GREEN (Champaign). Assuming that the right to tax is inherent, would you protect the owner of real estate in the Constitution by a provision that all real estate should be classified as one class, in one class?

Mr. STRUCKMANN. I did not say that.

Mr. GREEN (Champaign). Do you think that should be done?

Mr. STRUCKMANN. I said that real estate should be assessed by valuation, the way it is today.

Mr. GREEN (Champaign). Would you make any difference in valuation or the rate to be assessed upon the valuation between different kinds of real estate?

Mr. STRUCKMANN. No, sir.

Mr. GREEN (Champaign). You would have it in one class?

Mr. STRUCKMANN. Yes, sir, I would.

Mr. GREEN (Champaign). And limit in the Constitution the power of the taxing body to provide any different tax rate upon one character of real estate than another—you would prevent that by the Constitution?

Mr. STRUCKMANN. Yes, sir.

Mr. GREEN (Champaign). If the power of taxation is inherent without any Constitutional grant, in your judgment is it necessary or expedient if the legislature is to have unlimited authority to classify personal property to say anything about it in the Constitution?

Mr. STRUCKMANN. Yes. I would provide two things in the Constitution that I think are essential. One is that even personal property should be assessed only for corporate purposes. That is one thing that should go in. The other thing that should go in this, that if the legislature does classify property all property in the same class should be treated alike, and beyond that I would not go. Any other questions?

Mr. HULL (Cook). Can a municipality tax for anything but corporate purposes now?

Mr. STRUCKMANN. Not under the present Constitution. I would retain that provision.

Now, gentlemen, a few other suggestions I desire to make. When I started out I stated that the tax question was only a comparatively small part of your financial system. Now, what do I mean by that? I believe that a proper system of expenditures would solve many of your questions that you have today. I believe, for example, in a budget system. I think it is a money saving system. I do not believe in crowding into an existing corporation powers that do not belong there. I believe in spreading the burden, and let me illustrate. I remember when I came down here Mr. Shurtleff was speaker of the House and we had introduced a bill under which the State took over the insane that were then being maintained or taken care of by the county, and I think Mr. Shurtleff and Mr. Shanahan were the only members knew it originated in Cook county. If the others had known it it never would have gone though. There is not a man in the State of Illinois who will go back today to the old system of taking care of the insane in the county insane asylums. The State is doing it. It is the proper thing to do. It is the economical thing to do. The State has now

established, I believe, a colony for epileptics. It is the proper thing to do. You take care of your blind—that is the proper thing to do, yet you saddle upon Chicago and other municipalities the expense of taking care of your tubercular patients.

Gentlemen, that is a matter that should be delegated to the State and not made a local matter.

That illustrates what I mean when I say spread the burden.

We pride ourselves in this State upon our public schools. Gentlemen, we have no public school system. In Cook county alone we have over 170 systems, and not any two of them are alike. They are all different. They pull at different strings. I can show you school districts in Cook county and out of Cook county where eighty and ninety per cent practically of the school taxes are paid by a railroad that runs through a farming community. Your valuations of your railroad can be assessed in one way only. You must take your whole railroad system as one. The Chicago, Burlington & Quincy starts at the lake front and runs to the Mississippi River, and is one piece of property. You take out a mile in the middle of it and you destroy the whole property. You must assess it as a unit.

Wherever it is possible to do it economically, shift your burdens from the local communities.

I am in favor, gentlemen, of turning the schools over to the State. I am getting into matters now that possibly a great many of you will say, "Well, he is off, he is trying to put something over," but I want to leave this platform with this suggestion, that is only one thing. There are a number of others. Today they are properly local matters. Ten or fifteen years hence they will not be local matters. Leave the legislature in such shape that as occasion arises they may take away from the local communities the burdens which have become oppressive and spread them. The idea of consolidating all the governments in Cook county in the City of Chicago, to my mind, is a step in the wrong direction. If you are going to consolidate, go at it the other way. Instead of contracting your municipality, expand it and turn everything over to the county. There is more reason for that. The time is going to come when most men will realize this fact, that the people who live in the suburbs have just as much right to ride on street cars as the people who live in the City of Chicago. Take it out my way, Chicago, Cicero, Berwyn, Riverside, Brookfield, LaGrange—12 miles all in one county, Hinsdale right across the line, eight different municipalities and eight different local problems in regard to local transportation.

Gentlemen, that is one of the things that is not a matter of local concern. It is not local.

Now, I hope that I have said just enough on that subject to set you gentlemen thinking. It is not a proper subject matter to be taken up here. It is a matter which should be left with the legislature. If the legislature in its wisdom sees fit to consolidate governments, let them do it. Give them the power to do it if they want to, but don't make any fast and hard rule so that you will tie the hands of your legislature. Let us fight those questions out in another forum.

Now any other questions?

Mr. GRAY (Adams). I should like to ask one question. You suggested that in the City of Chicago there seemed to be different school systems.

Mr. STRUCKMANN. In the County of Cook, I said.

Mr. GRAY (Adams). In the County of Cook?

Mr. STRUCKMANN. In Cook county there are over 170 school districts. The City of Chicago is only one school district.

Mr. GRAY (Adams). You are speaking of districts?

Mr. STRUCKMANN. Districts. The City of Chicago constitutes one school district, and outside of Chicago in Cook county there are over 170 other school districts.

Mr. GRAY (Adams). I understood you to use the word "system" instead of district.

Mr. STRUCKMANN. And each district constitutes a system of its own, and every school district in the State constitutes a system of your own, and you have no State system.

Mr. GRAY (Adams). Will you enlarge on that? I don't see clearly what you have in mind by the term system.

Mr. STRUCKMANN. I have in mind this, that the children of this State are entitled to just as much consideration as your criminals. You are supporting your criminals out of a State tax uniform all over the State, but when it comes to your school children it is hit and miss all over. Turn that matter all over to the State and get a real school system. Distribute the burden. Don't leave the thickly settled communities all over this State bear the burden. Wherever you have thickly settled communities your high tax rates are because of your school taxes. Make that a State matter and don't leave it as a local matter.

Mr. REVELL (Cook). If it were made a State matter it would be put into the hands of a larger, bigger, and broader gauged body?

Mr. STRUCKMANN. Yes.

Mr. REVELL (Cook). The proper salaries, bigger men who would perfect a system which all could live and prosper under and with greater benefit to the children.

Mr. STRUCKMANN. That is my idea.

Mr. REVELL (Cook). I think you are right.

Mr. STRUCKMANN. That is all. I thank you. (Applause.)

CHAIRMAN GALE. We will now hear from the Honorable Hayden N. Bell of Chicago.

Mr. BELL. Mr. Chairman and gentlemen of the Convention: There is a proposal number 85 on the revenue article introduced by Delegate O'Brien (Cook) and what remarks I make I want to have some relation to that.

Inasmuch as the question which I desire to discuss is in the last section which is section 13, I would like to begin at the end of it.

Now, I want to say that I appreciate the fact, of course, as every man here does, that constitutional provisions are necessarily general and fundamental. On the tax question as on all other questions it is my opinion they should be general and fundamental, clear and sound, and then enforced rigidly. Of course the enforcement and the legislation for enforcement comes through the legislature.

First, I want to say that I believe in the maxim that equality is equity. That is a maxim of equity jurisprudence and it is the maxim of the present Constitution, and so far as I know of all the Constitutions of this State as applied to revenue. It is, that every man should contribute to the support of government according to the value of his, her or its property, and that I believe, and I do not think this Convention could safely depart from that proposition.

I would not favor the classification of any property for the purpose of a different rate, but I would favor the classification of intangible property for the purpose of untangling double taxation, and establishing a valuation for taxation which was not taxed in something else, or some other form.

Now, I think this: That in all commercial mortgages that the mortgage value only, I mean the notes secured by the mortgage, the value of that note largely is represented and taxed in the value of the property upon which the mortgage is a lien, and when that property is taxed, it is my opinion and my theory that the mortgage debt is taxed to the extent that it is represented therein.

Of course the note has a double value. It has a value which depends upon the property upon which it is a lien, and which would be lost out of the note if that property were utterly destroyed. It also has a value which is due to the earning capacity and personal honesty of the maker of the note. Now, that value is not taxed when the property is taxed, but it is my thought and my theory that the value which that note derived from the property is taxed when the property is taxed. Now, the classification

that this section 13 in this proposal refers to is that classification which would separate the values which are represented in commercial mortgages and other mortgages secured on property, which would separate the value, the value which is represented in other property which itself is taxed from the value of the mortgage which is not taxed, and when you do separate those two values, list them, enter them in the general property assessment roll of the State and tax them according to the same rate exactly.

Now, of course I may be wrong and I may be right about double taxation, but that is only my thought.

Mr. FIFER (McLean). You would not classify property and then permit the legislature of the State to place a tax on one class different from another?

Mr. BELL. No, sir, I believe that equality is equity, and I would stand on that principle, and I believe further that the more simple and fundamental the law can be made the more easily it can be understood, and it is important that the people understand the law that they are called on to obey, and for that reason I would leave all property under the general tax system except of course there are species of property which do not easily assimilate themselves to other property. For instance: There is an inheritance tax; you could not very well make a basis for this inheritance tax and enter it upon the assessment roll. There are valuable privileges. There are valuable uses in property; sometimes they assume a form and character of value which is widely separated from general property. This section 13 reads in this way:

"In cases of intangibles and other like items, wherein the value in whole or in part depends on other property and is represented and taxed in the value thereof, the General Assembly shall have power to provide against double taxation, and may ascertain the proportion of value not represented and taxed in the value of other property, and provide for the valuation and taxation of such portion, and for this purpose the General Assembly may, in its discretion, classify said items and may establish the portion to be taxed at a given proportion of the entire value, and may establish a different proportion for different classes thereof."

So with this Constitution, if this provision should go in the new Constitution would prohibit any distinction being made as to the rate of taxation on any kind of property. What I say on that is this: If mortgages are classified for the purpose of collecting a different rate, then of course the man who pays on his household and kitchen furniture and his teams and his personal property, he would say, "I don't own mortgages, they are owned by people, rich people," and he would at once say, "You tax one kind of people." It is only a step from property to people—he would say, "You tax rich people at a less rate than you tax other people," and I say that causes a misunderstanding in my opinion, and should be eliminated by the form which this provision should take in the Constitution.

I think double taxation exists in the average case of the commercial mortgage, and with your permission I will illustrate why I think so. If two men, who have $3,000 each go to a third man where he lives in a house worth $6,000, those two men go there and give him $6,000 for that house and he takes his $6,000 and goes away. Now, when those two men get down there they only have $6,000 each apiece; there was $12,000 worth of taxable values at the house. When they had completed this transaction and the owner had walked away there was $6,000, because six had been carried away, and there was only then $6,000, because six only had been brought down to the house. Now, suppose those two men take this title as joint tenants and the assessor comes along as soon as the transaction is closed. He assesses $6,000. That is all that is there. That is all he can assess. Suppose instead of becoming joint tenants, intending to be joint occupants of this house, one says, "I will invest my $3,000 on the fee simple in the house and you take a mortgage deed to it which I can pay off and when I have paid it off I will own the entire house and you won't own anything." They execute those papers. That is all there is to it. There is nothing added to the situation, and the assessor comes. He assesses the $6,000 value of the house and then he asks them if they have any mortgages and this

one says, "Yes, I have a mortgage for $3,000 on this house; this man here gave it to me," and the assessor assesses $3,000. Now, there is a $9,000 assessment $3,000 of which is based upon, and based only upon the form of the transaction and the distinction between a mortgage title and a fee simple title. Now, I say that some kind of intellectual hocus-pocus created that extra $3,000, and I say in my opinion this is the reason that the old system which has treated that mortgage as substantive value, which it is not in my opinion, was wrong, and the reason that the honesty of the people broke down at the point of paying taxes was they could not explain it, but they knew they were in the presence of something wrong. It was double taxation to that extent. I believe that common honesty will always respond to common right, and I think this Constitution should provide so that the property of the people of this State, the intrinsic property, the substantive value that the people own in this State should be assembled and assessed to bear the burden of the State government in proportion to the value, just as the present Constitution provides, and then that those laws should be rigidly enforced, and in my opinion they could be.

Mr. HULL (Cook). You would exempt nothing?

Mr. BELL. I have taxed $6,000 which the house represents after the other six has been carried away, and the $3,000 mortgage; that part of its value which was represented in that building, and taxed in that building I would not tax. I would classify it and leave it taxed in the building.

Mr. TODD (Peoria). Suppose instead of executing a mortgage to secure that note, the owner of that property was considered of sufficient financial responsibility so that the man would take a note unsecured for his $3,000; would you tax that man on his $6,000 value on that house, and three?

Mr. BELL. I just assumed two men who only had $3,000 a piece.

Mr. TODD (Peoria). I am granting that.

Mr. BELL. The man who holds that $3,000 mortgage has a certain amount of earning capacity and integrity. Now, that adds something to the value of that note which would remain in his note if the house were destroyed. I would classify those two values.

Mr. TODD (Peoria). It does not create any additional property, does it?

Mr. BELL. Yes, in this way: We are dealing with value; of course, tangible property is the ordinary symbol of value, but we are dealing with values. Now, if land is valuable, personal property is valuable and earning capacity and the integrity of a citizen is valuable because his promise is worth money if he has not present ability to pay, if he is honest and if he has earning capacity, his promise to pay is worth something.

Mr. TODD (Peoria). He has his $6,000 property and he has the note outstanding, but no mortgage against it; how does that create any additional property?

Mr. BELL. You mean due to his ability and his integrity to pay?

Mr. TODD (Peoria). And the fact he owns $6,000 fully paid for.

Mr. BELL. When this man signs this note, they have not brought any values down there except what was in their lives or in their pockets, $3,000 in the pocket of each; of course there was some value in their lives as citizens. It is not the policy of the State to tax earning capacity of people, but when that earning capacity assumes the form of property, in any form, for instance in giving a note, then it might very well become taxable; it is not taxable until it assumes some property form.

Mr. TODD (Peoria). Wouldn't you be taxing $9,000 just the same under your other plan.

Mr. BELL. No, sir; unless this value due to the earning capacity, and the ability of the debtor made up the entire value of the note.

Mr. LINDLY (Bond). I take it for granted that the illustration you have given is an illustration that would cover all mortgages in the State; you would exempt all mortgages that are given on property in the State?

Mr. BELL. No; because it would not exempt them. There is a personal element to every mortgage; a commercial mortgage, the legislature may for convenience, because as it has been said, taxation is not an exact science, it is only an approximation—the legislature may say in commercial mortgages that ten per cent of the value is due to the personal element and 90 per cent was due to the house upon which the mortgage was a lien.

Mr. LINDLY (Bond). I based my question on what you said; you said you would not tax that mortgage.

Mr. BELL. I would not tax that part of its value which in a proper classification is represented in the house. Now, taxation is essentially in rem; it is directed at property, and that is principally real estate and personal property.

Mr. FIFER (McLean). Suppose there was no other taxes in the State except the income tax. Would not an income tax properly adjusted catch all three of those properties?

Mr. BELL. Of course it could be adjusted so as to catch it. Here is the point I make, Governor: I make this point for what it is worth, and upon fundamental grounds, that the mere form of that transaction between those two purchasers cannot create $3,000 of value; it may bring out the life and earning capacity of one of them a value which the State could seize upon before in the form of a promise to pay, and tax that, but that is the only way it can create it. Of course if that value was the only value that the note had, why then of course it could be taxed.

Mr. FIFER (McLean). You would tax the $6,000 that was carried away?

Mr. BELL. I certainly would.

Mr. FIFER (McLean). You would tax the building?

Mr. BELL. The $6,000 represented in the building.

Mr. FIFER (McLean). Suppose it was all a well adjusted income tax, and the man who owned the mortgage was getting ten per cent on this mortgage, would it be proper to list that in a properly adjusted income tax?

Mr. BELL. I do not know how you would direct an income tax in order to reach even approximately the result which is reached by the general tax. I do not believe in it myself. I do not think that an income tax should be levied except it should be levied upon a business constituted by the value of a certain use which has become exceedingly valuable so that the profits from it and from its leadership and management have become an overbearing matter so that the State can say here is a use, whether private or public, in this business and property, which is valuable aside from the property and after giving them a proper return, then levy an income tax; I think it is perfectly just.

Mr. HAMILL (Cook). When a mortgage note has been given, you divide that into two elements, one, its mortgage security and the other, the security of the maker of the paper; you would not tax it so far as its value depends upon the mortgage lien but so far as its value depends on the earning capacity and integrity of the maker?

Mr. BELL. Yes.

Mr. HAMILL (Cook). If the individual had not made any mortgage note would you tax his earning capacity and integrity?

Mr. BELL. No; because——

Mr. HAMILL (Cook). You have answered the question, Mr. Bell.

Mr. BELL. Well, there is something else to it. Because I stated that this earning capacity, while it was merged in the life of the individual, it was not the policy of the State to tax that, but when it assumes a property form, then the State can very well tax it.

Mr. HAMILL (Cook). You do not think the fact that you sign a mortgage in itself adds any value to it?

Mr. BELL. It pledges something for the future and that pledge is valuable.

Mr. HAMILL (Cook). It is valuable to the man who holds it but valueless to the man who gives it.

Mr. BELL. Yes.

Mr. HAMILL (Cook). It does not add anything to the value of the property of the State, it merely tranfers ownership of the title.

Mr. BELL. There is a slight suggestion of promoting of values; I could not change it further than to say it is not the policy of the State to tax value in the lives of its citizens, but when that value by the ordinary manipulation and usages of trade assumes, as it does, in a promise to pay money, assumes the form of property that the State has a very good right and excuse to tax it.

Mr. MILLS (Macon). Did I understand you correctly a few moments ago to say that when the man took the title of the whole property, borrowing $3,000 from the other man, that you would tax the entire property, that is, the house?

Mr. BELL. You have to do that.

Mr. MILLS (Macon). And the man that made the purchase, that you

Mr. MILLS (Macon). I understood you to say that you would not tax the man who had taken the note, but would put the whole tax upon the man who had purchased the property and had given the note?

Mr. BELL. On the house.

Mr. MILLS (Macon). Isn't that unjust to one or both of these two men?

Mr. BELL. That is what taxation by valuation means, and that is in vogue now.

Mr. MILLS (Macon). Should not the man who has the mortgage upon the property receive a credit for that, and should not the man be taxed who holds the mortgage on the property?

Mr. BELL. Well, now, possibly that is right. I am talking about how much the State is entitled to, not from whom the State may take it. I think this, men, that you take it from the man that has to have food and shelter and clothing. You cannot tax a money lender, he does not have to have anything but an opportunity to loan his money. You can reach him only when he becomes an animal seeking food and clothing, but all this tax will find its way back to that and rest there.

Mr. MILLS (Macon). If he takes a mortgage and takes a note, can't you reach that?

Mr. BELL. You might prosecute him for perjury and reach it. For instance, take my own home worth about $5,000 with a $2,000 mortgage on it. I pay taxes on $5,000. I do not know who owns that mortgage; I know to whom I pay interest, but it is payable to an unknown somebody and by them endorsed.

Mr. MILLS (Macon). Should not there be a method by which that can be reached, and if so, what?

Mr. BELL. That is the old scheme; you would compel those people to come in under pains and penalties under penitentiary punishment or the loss of their business to disclose their mortgage, but I say when you do, he will shift his rate of interest on me and I will pay that tax when I get my shelter and my home.

Mr. MILLS (Macon). Even if you do, would not you be paying less than to pay the taxes on the whole property?

Mr. BELL. I do not think so; I think to the extent that his mortgage of $2,000 is represented in the value of my house it is taxed there when I pay the taxes. I pay it because I could not see how two men going down to a $6,000 house with only $6,000, three in the pockets of each and buying that house and then arrange the transaction between themselves in the form of a mortgage from one to the other for $3,000, I cannot see for my life how they can manufacture $3,000 worth of extra value.

Mr. MILLS (Macon). Haven't you really got the $12,000 there, the $6,000 that the original man owned in the value of the property, and the two men with $3,000?

Mr. BELL. Under my original assumption I had the man that got the $6,000 walk away, and after he walks away there is only $6,000; $6,000 there in the house and $6,000 comes in, and then when the purchase is completed one six thousand is carried away, there is only six thousand left.

Mr. MILLS (Macon). It is not carried outside the reach of taxes?

Mr GREEN (Champaign). If the whole value of the three mortgages is represented by the equity in the property, would it make any difference if the man who held the mortgage lived in Indiana?

Mr. BELL. You mean on the creation of new values?

Mr. GREEN (Champaign). On the subject of taxes.

Mr. BELL. I say there is no new value created whatever in the distinction between one owner taking a mortgage title or a half interest on the fee simple title.

Mr. GREEN (Champaign). You can do it either way, whether in the State or out.

Mr. BELL. I gave that illustration first because it convinced me that when the State got $9,000, three thousand was on wind, and I think the Constitutional Convention should take the wind out and then provide that every man should pay according to the equity or equality.

Mr. KERRICK (McLean). Suppose that these two men that bought the house should say we are perfectly good for this, we do not want to make a mortgage; we have not got any money now, but you know us, you know our character for honesty and all that; we will buy your house for $6,000 if you will take from each of us a note for $3,000 unsecured except by our reputation as men who pay their debts. There is $6,000 in the form of notes; would you tax those notes?

Mr. BELL. Yes.

Mr. KERRICK (McLean). And the house, too?

Mr. BELL. You have not anything on me; in the case I assumed I said they brought $6,000 in money; you say they come without money; when you leave them in charge there is only $6,000, the other man carries away the price.

Mr. KERRICK (McLean). Would you be in favor of taxing the $3,000?

Mr. BELL. Yes; if chose in action under any circumstances is to be regarded as intangible property, then it should take the incident of intangible property and take its place in the general assessment of the State and pay taxes like any other property, but there should be no deductions from it except the active interest in the business; I think deductions are all wrong.

Mr. WALL (Pulaski). In the illustration originally made with reference to the value of the house, first, you fix that at $6,000. That is the real estate. Now, you would assess that; if you assessed the full value at $6,000 regardless of the mortgage—it is a homestead occupied by this party who buys it; that is unproductive as far as securing interest, but it has a value of $6,000; your theory of taxes is an assessment on the value of the property?

Mr. BELL. Yes; that is my theory. The first clause of this article reiterates the equality doctrine of the Constitution.

Mr. WALL (Pulaski). Now, isn't it true for the purpose of protection, which are for the protection of the property owner and the carrying out of his business, isn't it true that the property is worth just as much for the purpose of taxation and should be taxed just the same and to the same extent as if it was not mortgaged?

Mr. BELL. The house, yes; I said a while ago that taxation is a proceeding in rem; it has nothing to do with persons at all. The assessor finds property within the jurisdiction of the State and ascertains its value and makes the assessment; for convenience he makes it against the man claiming title; he don't tax titles, and that is my objection to taxing this mortgage insofar as it represents a title interest in this property; there might be fifty disputed titles to the house.

Mr. WALL (Pulaski). I understood you to say there was only $6,000 worth of property there, that by no contention can there be $9,000. Isn't it true that municipalities, large and small, the State and the Nation makes up its total wealth by estimating the value of the mortgage at par, if it is well secured, the value of the house and the value of every kind of property, tangible and intangible?

Mr. BELL. Yes; but these remarks, and humble as they are, are intended to unmix and unscramble that situation, because I do say that insofar as the mortgage is simply a title to an interest in property it is included in taxes in that property.

Mr. WALL (Pulaski). It is an evidence of indebtedness, but isn't it also true that this mortgage of $3,000 floats out of the commercial world at par; it draws interest, will bring $3,000 anywhere and is a valuable asset to the confidence of its owner and why should he be exempt from paying the same amount of tax bringing him that income when the man who owns the house that is unproductive should pay a tax, for the reason that this mortgage goes into the life of the community and is part of it and makes up together with the house actually $9,000 worth of property?

Mr. BELL. You take a Chicago mortgage that floats down to Springfield, and the buyer when he buys it, he traces back its security in Chicago; it is a $3,000 mortgage and secured on property worth $3,000; then he considers it and buys it; that is only the shadow of a substance which is down in Chicago; for instance, you take the case I cited; I don't see how these men can create $3,000 by giving a transaction a certain form between themselves.

Mr. WALL (Pulaski). Isn't it true that the money paid to the original owner of that house is also worth $5,000 and goes into the estimate of the value of the wealth of the community, and should not it be taxed also; isn't there $15,000 worth of actual property?

Mr. BELL. I lost some of the question.

Mr. WALL (Pulaski). The man who sold the house originally got $6,000; he sold it to tenants in common or a general tenant; he got his $6,000, and then one of those tenants sold to the other for $3,000, sold out his half interest to the other and gave a mortgage; there is a $3,000 mortgage, a $6,000 house, $6,000 in money that the original party had in the house originally; does not that make $15,000 worth of actual value for taxation purposes?

Mr. BELL. Let me answer that question by taking you and myself; we have $3,000 a piece and that is all we have; we approach the man who has this $6,000 house, and that is all he has; we buy his house; we take our money and give it to him and he walks away; when we first go down there is $12,000, but when he walks away he takes his $6,000 and there is six left. Now then, you and I, we want to occupy this house jointly; you will say, "I will put my $3,000 on a fee simple title and you take a mortgage and I will pay you this $3,000 back and we will occupy it jointly for one or two years;" now, that is the form of the transaction; does the form of that transaction create $3,000?

Mr. WALL (Pulaski). Yes; and is worth $3,000, and the house is worth no less.

Mr. BELL. Suppose we do not put it in that form but we each put our $3,000 on the fee simple title and own it half and half; then the assessor comes; how much assessment does he get?

Mr. WALL (Pulaski). If you pay it entirely on a security?

Mr. BELL. You and I pay for it.

Mr. WALL (Pulaski). Then the cash you pay and the house are both property, absolutely. Do you know that system was tried in Indiana, and they went back to the old system; they tried the system you are talking about now; they assessed $3,000 and the owner $3,000 and the mortgage and afterwards abandoned it on the ground that there was actually $9,000 worth of values, do you know that?

Mr. BELL. It is impracticable to divide it up; when the State finds valuable property the policy of the law in modern times is to make the assessment and not concern itself with ownership. You go to a $5,000 stock of goods in a store, and the creditors might really own it; you do not concern yourself with the titles to those goods, but the assessor fixes a value and makes the assessment, but we get into a situation where in the admixture of intangible property and value we have it overlapping a great deal. My idea is that the merger should be combed out, it should be un-

raveled and the real value should be the basis of taxation, and when done everybody should pay according to what they own. And I want to say to you in frankness I have been on both sides of this question in my own mind and I do not blame anybody for differing with me. I do not see how the mere form of transaction between two purchasers can create $3,000 of value. If I were going to make an assessment on that value I could not escape the suggestion that I was assessing wind, that I was not dealing with substantive things, but with fictitious things, and if it was fictitious I think it should be taken out of the organic law of this State and some rule be established that everybody should be made to conform to.

Mr. BARR (Will). What would be your method of unscrambling?

Mr. BELL. Suppose the legislature would undertake to carry out a provision of this sort; suppose in a $1,000 mortgage one-tenth of the value of it should be considered due to the personal solvency of the maker and that nine-tenths should be due in the average case to the security, and then enter one-tenth on the assessment roll, that one-tenth is not based on property; it is based upon the earning capacity of the citizen of the State, which by his act, he is brought out in concrete form; that would be my method; you take the assessment of capital stock; now, tangible assessment are taken away from the capital stock assessment of a home company; it is not quite clear that if they pay taxes on some part of their property in another state, it is not quite clear that that part should be deducted, but it ought to be.

Mr. BARR (Will). Suppose I had a farm worth $50,000; I gave a mortgage of $20,000; the security is more than twice the value of the mortgage; it does not make any difference to you under those circumstances, holding the paper, whether the maker of those notes has any earning capacity or any ability to pay beyond the security at all, does it?

Mr. BELL. That is true.

Mr. BARR (Will). Would you think with that kind of a mortgage, the holder would be obliged to pay or should pay the same proportion of the value on his mortgage that he holds as if I were to take a $50,000 mortgage on a $60,000 property with a possibility that I might have to follow up the owner who would be worth $50,000 aside from the property upon which the mortgage stood, would you fix the classification of both of those notes or mortgages exactly the same?

Mr. BELL. I would not if I were the legislature, no; of course, taxation is only an approximation.

Mr. BARR (Will). —Would you assess against the note with a small security a larger tax rate than against the mortgage with a large security?

Mr. BELL. Not unless its value was full and fruitful with personal solvency and security, then I would.

Mr. BARR (Will). Would you consider that the owner of a mortgage that was secured by land worth as much as the mortgage ought to pay a less tax on his notes than the man who held a mortgage that was slightly secured by the real estate behind the mortgage debt depending largely upon the personal worth of the maker of the note?

Mr. BELL. That would be the tendency, yes.

Mr. BARR (Will). Then how would you classify notes that were not secured by any mortgage at all?

Mr. BELL. According to their value.

Mr. BARR (Will). Now, then, I sit here with $10,000 worth of mortgage notes amply secured; my neighbor sits beside me with $10,000 worth of personal notes; do I understand that I would be only slightly taxed upon my mortgage notes which are amply secured and my neighbor would be taxed at a higher rate upon the notes that were not secured?

Mr. BELL. It would work out that way.

Mr. BARR (Will). A higher rate?

Mr. BELL. A higher valuation.

Mr. BARR (Will). It would amount to a large amount of tax that he would be obliged to pay?

Mr. BELL. Yes.

Mr. BARR (Will). Now, theoretically I have no questions to ask, but practically as a taxing method, do you think that would work out satisfactorily and equitably?

Mr. BELL. I think it would for this reason, because I believe it is fundamentally sound. You take the one of you whose notes are secured on land. The value represented in those notes to the extent of that security is taxed in the land; you take the man whose notes, perfectly good, but from personal security, they are not taxed; now, there is a good reason why the State should tax one and not the other; it has taxed one already, the other has not been taxed, therefore it taxes it, it is a new value; it is pulled down out of personalty and the other out of the ground.

Mr. BARR (Will). How do you think the burden on the holders of the notes would be equalized? Do you assume the rate of interest on the personal note would be so much higher than the rate of interest on the mortgage note?

Mr. BELL. It would naturally. Answering your question fundamentally, because I am not thinking of what would work out, but what is fundamentally true.

Mr. BARR (Will). I am concerned with what would work out.

Mr. BELL. In thinking of what is true you will get close to what will work. The reason the State does not tax the full value of the secured notes on real estate is because it has been to the land and taxed that value by representation; the reason it does tax the other value it has been unaware of it, and taxes it there for the first time.

Mr. BARR (Will). That reason does not do the note holder any good if he has to pay the large tax on the unsecured paper.

Mr. BELL. He knows that the State that he lives in, that it is the policy of that State to regulate its financial matters according to fundamental righteousness and truth.

Mr. BARR (Will). What would be your method of classification as to bonds or notes that were secured upon property not lying within the State and not subject therefor to taxation here?

Mr. BELL. I would apply the same rule to that that we now apply to personal property which is moved into this State after it has been assessed in another State. I think State comity should take care of all those questions and it will in time.

Mr. BARR (Will). You would favor an income tax as a method of arriving at the proper method of taxing intangibles?

Mr. BELL. No, I would not; I cannot see for my life how you would apply an income tax to intangibles; I do see some of the most cogent objections that could be imagined to taxing intangibles according to their interest bearing rate, that is to tax a three per cent security at a less rate than one that bears seven, because that would be a direct premium placed upon tax dodging and business slovenliness.

Mr. BARR (Will). What would be your method of seeking out intangible property for the purpose of taxation?

Mr. BELL. That is a legislative matter, but it could be done; if intangibles that were withheld from the tax list were made non-collectible, or if everybody was required as now by statute—that has been held to be repealed by later revision—to make a sworn statement including those matters and be rigidly enforced—every state I have been in has the same trouble as Illinois.

Mr. FIFER (McLean). You tax the $6,000 that the man carried off?

Mr. BELL. Yes.

Mr. FIFER (McLean). You would exempt $3,000 note secured by mortgage except this slight value?

Mr. BELL. Yes.

Mr. FIFER (McLean). But you would tax the house $6,000?

Mr. BELL. Yes.

Mr. FIFER (McLean). Wouldn't it be more equitable and just to tax the man for the $6,000 that he carried away and tax the man his $3,000 for

his mortgage and to tax the house for $6,000 less $3,000 that is on the mortgage?

Mr. BELL. Now, Governor, that is a method of getting at it; we have not included any fictitious value. You and I are together on the $12,000.

Mr. FIFER (McLean). Your first proposition was that you would exempt the notes.

Mr. BELL. According to your assumption now there is only twelve; I would tax six, you agree with me.

Mr. FIFER (McLean). Yes.

Mr. BELL. Wouldn't it be better to tax the man with the fee simple mortgage $3,000 and the house three?

CHAIRMAN GALE. We have two more speakers that wish to be heard; I think you will have to forego questioning the speakers from now on in order that we may finish tonight.

Mr. BELL. My idea on classification have about been covered; there is another matter I would like to say something about, in section 9, the last part of section 9, which reads as follows:

"The General Assembly may vest the corporate authorities of cities, towns and villages with power to make local improvements by special assessment or by special taxation of contiguous property or otherwise. For all other corporate purposes, all municipal corporations may be vested with authority to assess and collect taxes; but said taxes shall be uniform, in respect to subject and property within the jurisdiction of the body imposing the same, and limitation on tax rates for local purposes shall be the same in municipalities of the same grade or class and for county purposes shall be the same in all the counties of the State."

That last part, "requiring limitations to be the same in all the counties of the State—Cook county is interested particularly in that provision, and I take it not any more interested than the other counties in the State as a fundamental question of what is right. Cook county limitation now, it has thirty-six and two-thirds for two more years and then it falls back automatically to thirty cents; counties outside of Cook have fifty cents, the limitation under the Juul law of fifty cents; that is on the theory that the aggregation of wealth and people in Cook county, and standards of public service would enable the governing agencies of Cook county to function cheaper per capita per average taxpayer than in the other average counties of the State. I want to say a word on that subject because in my judgment it is wrong. Cook county is the melting pot of the nation; thousands and thousands and thousands of strangers come there. The lumber jacks of the north and the harvest hands of the northwest spend their off-season there, and the criminals of this country largely and of the world rendezvous there and pass through there on their circuits; in that way Cook county's charitable demands have been multiplied many times over, and I want to say to you and leave it with you, because I think those down-State counties will be surprised to learn that one-half, that nearly one-half of Cook county's general tax levy, over three millions of dollars is devoted to these extraordinary charities in Cook county; Cook county is maintaining today out of her ordinary revenue an infirmary at Oak Park that is the wonder of the age; it is not equaled in my judgment; then there is a tuberculosis sanitarium, there is the hospital and home for delinquent boys, the Chicago and Cook County School for Boys, and its service connected with the delinquent criminal boys, juvenile court boys; those expenses incurred by Cook county amount to nearly half of the ordinary revenues of the county from taxation. Now, I imagine that is not true in any other county except Cook; I imagine that ten per cent of the revenues of other counties would be a high average for the same grade of service. I personally believe that it costs more per capita in Cook county to maintain the county government than it does in the counties outside of Cook, but I would not ask for a higher rate of taxation, but for uniformity, and for a regulation of those costs among the counties of the State according to the natural value of what

the government costs in the county, and that is what that provision means.

There is one other matter incorporated in here, and that is the income tax, but it has been gone over and covered, and there are other gentlemen to speak, and I think that I would be trespassing on your time to speak further.

I would like to say this, however, that I do not represent so far as my views are concerned here any class of people. I have heard it said that you should not tax thrift in connection with income tax; I do not know what the idea is aside from the words used, but I believe it expresses a wrong principle and that thrift should be taxed. The brains and wisdom of the State furnishes its leadership, and you do not find people backward about making a contribution to leadership; you do not expect statesmanship from mediocracy, and neither do you expect the financial burdens to be borne by impecuniosity. You take the active thrifty men of the State and they use the agencies of the State more than the men who are less active and less thrifty and enterprising. There is every reason why they should pay, they have more; it is easier to pay when you have plenty of money, and I would not be in favor of an income tax that would be directed at thrift, but there should be left a sufficient income before the income tax starts to be levied, but I do think that business, and the whole country has gotten to be business now, and business life has become very complex, so that you see one man prospering and he is surrounded by subsidiary businesses, and they are prospering or the reverse, and under them there are other subsidiary businesses and you cannot trace them back to their source; I think that business in this country needs to study on this question of revenue the lesson of patriotism; while the business man and the honorable and honest man would feel it was unmanly not to keep his word or to cheat somebody, he should feel it was unmanly to withhold from the support of the State his just share of the State burden, and that feeling should be fostered by this Convention and by the legislation which follows this Convention to carry it out. I thank you. (Applause.)

CHAIRMAN GALE. Mr. Frank I. Mann will speak to us next. He is one of the directors of the Farmers' Institute and speaks here at the request of the Farmers' Institute. I present Mr. Mann.

Mr. MANN. Mr. Chairman and gentlemen. I feel somewhat embarrassed to talk on a subject on which I know so little.

This subject of classification of personal property has been discussed all my life. I heard in this room Mr. Snively discuss this subject 35 or 40 years ago, and his idea was at that time to classify personal property and put the intangible in a class and put a low rate of taxes on it. It appealed to me then, and I have believed in it ever since, because I believe it is right and fair that that class of property, if we may call it property, has less productive power than tangible, hence less able to pay taxes. I think it is fair to have a lesser rate of taxes on it.

I have a friend, a widow lady who was left $5,000 in life insurance for her support. As long as it was in the bank as a temporary deposit or in the building and loan she was having a very little income from it. When it was invested in mortgages she had a very little income from it, even a mortgage of five per cent in the town in which she lived, the total taxes were about seven per cent so she had about one and one-half per cent income from that to support her. It seems to me the Constitution should provide some way by which classification could be made.

I think there ought to be a classification on farm lands, for two or three reasons. The public have several rights in land, and one is that that land shall render its proper service in the production of food, and we are feeling that right now. Another is, that the fertility of that land shall be maintained for future generations. And that means maintaining the fertility. Another idea is that the class of citizens shall be of the highest class on these lands. Now, it is believed that the modern tenantry system does not conduce to either one of those three great rights that the public has; that the tenant neither produces the highest class of citizens nor does

he protect the fertility of the land for the future, nor does he make it produce its maximum at present; neither will lending the credit of the State in the production of land solve that problem, because the more easy it is to get money to buy land the more demand for land and the higher the land goes, makes it practically as difficult to buy as before money was plentiful. I am inclined to believe that the Federal Land Banks have been quite a factor in the large increase in value of farm lands in the last two or three years; it has been made easier to buy, hence a greater demand.

Neither will cutting down the size of the farms by legislation accomplish the purpose we are after; it is the medium large farms, not the largest, not the large land owners,but the medium large farms which are producing more food and maintaining the fertility for the future better than the small farms, and I mean farms from 320 to 1000 acres. A few of the larger farms are doing well, but the tendency will be on the larger farms the other way.

There is another fight that the people have to levy taxes; it may not be workable, but in theory it seems to be sound, and that is to simply levy those taxes in such a manner as to encourage the holding of land by the owners and to discourage the holding of land for speculative purposes. To that end there would have to be three classes of land, of farm land; one, to cover the land that is held for speculative purposes in large areas; let that land stand a maximum tax, and another class which could be the farms which are operated more or less directly by the owners and through a tenant. That man, if he is in direct connection with his farm, he is interested in its high production now, its future production and the class of people grown on it; let a lower rate apply on it, and that land which is operated by the owner, who expects to maintain the fertility in the future, he wants to see it produce its maximum at present, let a lower rate apply on that. The difference need not be great, but carried out in time the divergence will be sufficient to encourage the owners of land and to discourage the holding of land for speculative purpose.

I think there ought to be another class, perhaps; in this State there was originally about one-third of the acreage, as I remember it, in natural forests; that has been reduced now to about one-sixth, and in a few more years at the rate we are going there will be no forests in Illinois. There is a large part of that land which was in forests which is practically useless for agricultural purposes, but it is fit for growing forest trees. Why not relieve that land if planted to forests of some of the expense; it is not productive land. It is not assessed high, but in some counties it is reasonably high even where used for pasture, because some counties have a great deal of that land and because they must have taxes, but we must look beyond getting taxes for revenue. All I suggest is that we leave that under the Constitution in such a way that the legislature in its wisdom may provide for these great questions that are confronting us.

Mr. FIFER (McLean). Would you classify property? You would, I understood you to say so, you would classify intangible property and put it in a class by itself, would you?

Mr. MANN. Yes.

Mr. FIFER (McLean). You say you would tax that at a less rate than other property?

Mr. MANN. Yes.

Mr. FIFER (McLean). And you gave as a reason for that that a certain widow woman whom you knew had $5,000 in money and it brought but a slight income, is that the reason?

Mr. MANN. No, I just stated that, just suggested that as an example.

Mr. FIFER (McLean). I know a widow woman in my town whose husband left her a small amount of property, not productive, unimproved real estate and it is a burden for her to carry it. What remedy would you afford by the Constitution for that woman?

Mr. MANN. I don't know.

Mr. FIFER. (McLean). I know other widow women who have been left with a house full of children and nothing; have you any remedy for her?

Mr. MANN. No, I have not.

Mr. WOLFE (Cook). Let her marry again. (Laughter.)

Mr. MANN. Whether it is a woman or a man it is not fair to confiscate the biggest part of the income on intangible property.

Mr. FIFER (McLean). You say you would tax intangible property less than other property? Don't you know the great bulk of intangible property is owned by the wealthy men of this country, isn't that true?

Mr. MANN. I don't know.

Mr. FIFER (McLean). I guess it is generally understood that it is so. So you would tax his property less than you would tax poor man's cow or his horse or his tools with which he makes his living, would you?

Mr. MANN. Yes; not because he is rich, however; he is not necessarily rich. One hundred dollars put in as money has its limit of productive capacity, but one hundred dollars put into a horse, you can make it produce more.

Mr. FIFER (McLean). What do you think the poor man would think of a proposal to tax their coffers up in Chicago and Bloomington and other large cities of the rich men less than they would a man for his cow, and that is all the property he has got except the tools with which he makes his living? Don't you think that would make a row in this State? Isn't it true that the men who own intangible property are the active men and able to take care of themselves in any situation where you put them?

Mr. MANN. Well, maybe so. I have not a cent's worth of intangible property so far as I know.

Mr. FIFER (McLean). If you are going to make a distinction it ought to be on that class of property.

Mr. MANN. That is all I have to say. (Applause.)

CHAIRMAN GALE. The next speaker who will address the Committee of the Whole is Mr. Valentine, of the Committee of One Hundred, of Chicago. Mr. Valentine.

Mr. VALENTINE. Mr. Chairman, and gentlemen of the Convention:

Speaking in behalf of the Committee of One Hundred, it might be well, in order that we may approach our subject with clear, unbiased minds, to explain to you briefly just what the Committee of One Hundred is and what its interests in the matter under discussion are.

Our committee is a voluntary organization of owners or agents of owners of real estate in Cook county. Its original inception was the result of a condition which had existed in Chicago for a number of years under which the tax levies and the taxes extended or the warrants against real estate were being constantly questioned as to their legality with the result that a comparatively few taxpayers in number but large as to amount were enabled to secure reductions in their taxes on technical grounds, while the many in number who hesitated to adopt such methods or who could not afford to do so were not only paying their taxes in full but were of necessity forced to pay additional taxes to reimburse the taxing bodies for the loss of revenue occasioned by these fights. Believing that this condition was susceptible of correction we evolved a plan under which we were successful in cleaning the budgets of the various taxing bodies of items which were open to technical legal objections, before the county clerk established his various tax rates, thus assuring to all taxpayers the same benefits, which in previous years had only accrued to those who saw fit to fight. Since then our field of activities has covered all branches of the subject of taxation, and all beneficial results of our labor has redounded to the benefit of all taxpayers in Chicago. We come to you today in answer to the kind invitation of your Committee on Revenue and Taxation with but one thought in mind and one purpose to accomplish, that of assisting you insofar as we may by shedding light on the present conditions which prevail in the matter of taxation. We have no axes to grind, except insofar as we grind them for the general good of all. We are riding no hobbies, nor have we any proposals before your honorable body which we desire to promote. The question of taxation is technical, intricate and complex, perhaps more so than any of the great problems confronting you. Every day changes in business and economic life and the constantly mutiplying needs of society

and government increase its problems and multiply the responsibility of those charged with the duty of securing their equitable solution. Trained experts, specialists of years of experience, thinkers, theorists and creative geniuses have devoted their lives, their energies and their activities to its solution and it still remains an unsolved problem.

The foundation of our present system of taxation is found in Section 1 of article 9 of the Constitution. After the very learned highly instructive and exceedingly valuable discussion of that and other sections by the distinguished gentlemen who have preceded me it would appear that any additional discussion thereof is unnecessary at this time. They have pointed out to you in detail its many defects, shown you its unworkable character and have in no uncertain terms expessed their opinions as to its inequitable features. To what they have said in this regard we desire to add our general approval. Hours might be spent in citing to you the many concrete examples which have come under our personal observation but we hesitate to encroach upon your valuable time in a further discussion of a system, which we firmly believe has no defenders. We will therefore devote the time so kindly allotted to us to a phase of the revenue question, which to our minds is as deplorable as that created by section 1, and which has been but lightly touched on by the previous speakers.

Your attention is therefore directed to sections 4 and 5 of article 9: Section 1 provides the means for securing needful revenue by taxation and having in mind the inability, neglect or willful refusal of owners of real estate to pay taxes thereon. Section 4 provides a basic method for enforced collection thereof. Section 4 reads:

"The General Assembly shall provide, in all cases where it may be necessary to sell real estate for the non-payment of taxes or special assessments, for State, county, municipal or other purposes, that a return of such unpaid taxes or assessments shall be made to some general officer of the county, having authority to receive State and county taxes; and there shall be no sale of said property for any of said taxes or assessments but by said officer, upon the order of judgment of some court of record."

As to the right of the State to enforce payment of taxes there can be no question. The right to tax carries with it the right to enforce payment thereof and it was to enforce payment of taxes on real estate that sections 4 and 5 were incorporated in the Constitution. The question at issue is: Do these sections produce the desired result? If not, why? Under these sections the General Assembly has enacted certain laws under which the collection, and enforced collection of taxes are made; and in order that we arrive at the practical operation of these laws and the final result thereof in an orderly and easily understood manner, it is best that we approach them in the order of their practical operation.

Section 169. Return by town collectors to county collector, March 10th.

Section 177. Real estate delinquent March 10th; one per cent interest after May 1.

Section 181. County collectors powers to collect.

Section 182. Advertise for sale.

Section 185. Application for judgment and order of sale.

Section 201. Manner of conducting sale.

Section 202. How sold. Penalty was 25 per cent, now 6 per cent.

Section 207. Issuance of tax certificate.

Section 210. Redemption any time before two years.

Section 211. Purchaser must not allow real estate to again be sold or forfeited for a period of two years.

Here again we see the intent of the legislature to permit no real estate to escape the payment of taxes by providing that if the owner does not the tax buyer must pay all taxes and assessments during the two year period intervening between the tax sale and the issuance of the tax deed.

Section 216. Prescribes form of notice holder of certificate must serve, and so forth. Strict compliance with this section has always been insisted upon by the courts.

Section 217. Affidavit before deed is issued.

Section 219. Deed may be issued two years after sale.

Having arrived at the point when the tax payer has received his tax deed the question naturally arises as to the real value thereof. After years of fruitless effort in attempting to establish the validity of such deed, during which time the courts have in decision after decision decided against the tax buyer it is now generally admitted by the buyers themselves that the deeds they hold are merely clouds upon the title of the owner in fee. Recognizing this fact the tax buyer calmly sits back and awaits the arrival of the owner to bargain with him for the removal of the cloud in the shape of a quit claim deed, and while waiting, being fully aware that he cannot derive any additional benefit by the voluntary payment of subsequent taxes on the real estate involved, he naturally refuses to do so. The owner of the fee knowing that the title to his property has been clouded by the issuance of a tax deed likewise refuses to pay, and we have finally arrived at the point where the real estate involved becomes non-revenue producing and it becomes forfeited property, and it remains in this class until such a time as the owner of the fee sees fit to settle with the tax buyer, receive his quit claim deed and again voluntarily become a tax payer. Thus it is seen that the difference of two private individuals as to the question of the amount of money necessary to settle their differences has under the practical operation of our present law permitted a vast amount of real estate to become non-revenue producing. It is not unusual to find two adjoining lots both taxed for the same amount, one of which contributes its full fair proportion of taxes for the maintenance of government while the other fails to contribute a cent.

Section 203 of the revenue law provides that all the property not sold at a tax sale shall be forfeited to the State and that a penalty of 25 per cent shall be added thereto.

Several provisions have been made for the redemption, purchase and sale of property thus forfeited but none of them have operated to reduce the number of forfeitures, much less eradicate them, and thereby reclaim this class of property from the non-revenue producing class. This condition of affairs strikes not only at the fundamental principle of taxation as proclaimed in section 1, but also defeats the very purpose for which section 4 was enacted, to-wit, to enforce the payment of taxes on real estate. So generally recognized has this deplorable condition been that many efforts have been made in the past to remedy it by legislative action, but owing to the limitations of section 4 and 5, no effective remedy has been found.

The last effort in this line was made by the legislature in 1917. Under Senate Bill 583 it was contemplated to vest in taxing bodies the power to purchase at tax sales in the hope that the professional tax buyer might thereby be eliminated. Various other provisions were included therein, and the measure was passed and sent to the Governor. In a very lengthy and undoubtedly sound opinion the Attorney General recommended that it be vetoed by the Governor. To confine the purchases at tax sales to the county, city, incorporated town or other municipality, the taxes due to which are delinquent; as one of the consequences of the result sought to be obtained by these amendments, the so-called tax buyer is eliminated; as to the constitutionality of this, he says there is no opportunity for competitive bidding and our courts have often declared that any valid judicial sale must afford an opportunity for competitive bidding. This has been declared unconstitutional. Thus we find that every effort which has been made to correct conditions surrounding the question of the enforcement of payment of taxes on real estate has been most effectively blocked by the very sections of our Constitution which were included therein for the sole purpose of enforcing collection.

Not only has the theory that all real estate must bear its full fair share of the burden of taxation been exploded and set at naught by the practical operation of sections 4 and 5, but an eminently unfair burden has been placed on the taxing bodies by the continued yearly loss of their much needed revenue. The records of the auditor's office show that real estate is indebted to the State in and to the sum of $456,326, practically all of which is due from real estate in Cook county. The records of the county clerk

of that county show that his total extension of forfeited taxes for the year 1918 amounted to approximately $5,000,000; this, of course included the penalties which the law prescribes he must add to forfeited property. In addition to this annual loss of revenue by the taxing bodies another condition is created by this continued forfeiting of property which should not escape your attention.

Certain sections or neighborhoods of our rapidly growing city are being retarded in their legitimate growth by the fact that a considerable portion of the real estate has been virtually abandoned by the owners in fee, and public improvements in the shape of special assessments are necessarily made in those sections at the expense of those who are performing their full duty by paying taxes or by the communities themselves being forced to bid in at tax sale and carry the cost thereof out of their corporate revenue. The City of Chicago is annually forced to tap its corporate resources in order to provide funds to redeem its special assessment bonds where deficiencies have been created by this forfeited or non-revenue producing property.

The legislature at its last session, in its desire to relieve the burden of the taxpayer whose property might be sold at a tax sale amended section 202 by changing the maximum penalty at which property could be sold from 25 per cent to 6 per cent. As the result of this legislation the last annual tax sale in Cook county was largely a matter of form, the professional buyers refusing to purchase at that rate, and about the only property sold at that sale was that which the tax buyer was authorized to buy in order to protect the holder or holders of mortgages. This added abnormally to the already overburdened list of forfeited property and presents a new and important situation. Inasmuch as thousands of pieces of real estate which would ordinarily have gone to sale and been redeemed have been forfeited for the first time and when it becomes known that the county clerk has extended that forfeiture on the warrants of this year with 25 per cent penalty added thereto, may it not be presumed that the owner of the real estate, resting secure in the thought that the tax buyers refused to buy the property last year, may and quite possibly will refuse to buy it in the future, refuse to pay the taxes himself? It is not unreasonable to assume that many owners may decline to voluntarily pay when they have reason to believe that no sale will be made under the present existing conditions. Should this happen to any large extent it would but add another shining example of the practical ineffectiveness of our method of enforced collection of taxes, and at the same time swell the total of the already large list of forfeited property.

Section 5 provides a time in which redemptions from sales can be made, for notice to owner or parties in interest and especially provides that, "Occupants shall in all cases be served with personal notice before the time of redemption expires." This section was included in order that the owner of real estate or the parties in interest therein should be safeguarded to the very limit in their right, title and possession of property. It will be noted that the same section of the Constitution of 1848 was much longer and specific than that of our present Constitution, which is perhaps the best evidence that each succeeding Constitutional Convention removes all unnecessary limitations.

Under our present system of tax sales provisions of section 5 were fundamentally wise yet in their practical operation under the strict judicial construction placed thereon they are one of the many means of defeating the purposes of section 4. When we consider that there are many buildings in Chicago which house as many tenants as are found residents in many of the cities and villages of the State, and when it is further considered that under certain conditions a verbal lease is as binding as a written one, it can be easily seen that a strict construction of this section makes the securing of a valid deed practically impossible.

The zealous guardianship of our courts in the interest of the owners of real estate has been both wise and equitable. It cannot be conceived

that it would declare a tax deed valid when the sole consideration of it consisted in the purchase at sale of one year's taxes and the subsequent payment by the purchaser of two years taxes and such special assessments as might become delinquent during that period. To do otherwise than to adjudge that deed invalid would amount to almost confiscation of property, and no court or taxing body would willingly be a party to any such transaction.

The entire situation surrounding the question of enforced collection of real estate taxes is deplorable, but we believe not hard to remedy. When it is considered that sections 4 and 5 of the Constitution have brought about the existing conditions, and when it is further considered that if neither of these sections were in the Constitution the General Assembly would have full and complete power to enact such laws as past experience would prove wise, beneficial and effective, might it not be well to consider the question of the necessity or advisability of their retention in the new Constitution, even in an amended form?

If it was deemed unwise that the entire question be left to the General Assembly without restriction, section 4 could be so amended as to provide that all sales be made to the State or that all delinquent taxes be automatically forfeited to the State, and that the General Assembly be vested with the power to enact such laws as would secure the enforced payment of taxes. It is suggested that sales or forfeitures be made to the State as it is the sovereign power and to permit indiscriminate taxing bodies to become purchasers would necessarily lead to unnecessary complicated and burdensome means of redemption.

Were you to provide that all delinquent real estate be sold or forfeited to the State, with a reasonable time for redemption thereof, and that the General Assembly enact such laws as would guarantee to the State the enforced collection of all taxes sold to it, we believe an effective solution would be found.

Under this the General Assembly could enact laws under which the State could offer the real estate sold to it for taxes at public sale for cash and out of the proceeds would first reimburse itself and all taxing bodies of interest for taxes due them and the balance, if any, would go to the owner of fee of such real estate sold.

We believe that the equity of the proceeding would be viewed in a different light by the courts and that a good deed in fee could and should be given by the State.

Every owner of real estate knows that in assuming title thereto he thereby obligates himself to bear his just share of the burden of government in the shape of taxes. Any owner who for a number of years neglects or refuses to bear this just burden thereby forcing an additional and unjust burden on those who do voluntarily pay should pay the penalty thereof, and inasmuch as such penalty cannot be enforced under sections 4 and 5 we suggest your earnest consideration of the question of their elimination or amendment.

Mr. KERRICK (McLean). I agree entirely with what you have said in the main, but I was wondering what situation would arise in the case of minors who were the owners of a piece of property. Under the law now a minor has one year after arriving at his majority, by enjoining the issuing of a deed, to redeem in. Could we provide in the Constitution to get around that inherent difficulty of taking property away from minors? That would be only a few out of many cases.

Mr. VALENTINE. That is a question that would naturally arise. It is not fair, and I do not think the State of Illinois would desire to be a party to any proceeding that would in any way disturb the vested right of a minor under those conditions.

Mr. HULL (Cook). I take your statement with reference to the fact a great deal of property has been forfeited and not paying taxes. Section 5 starts out: "The right of redemption from all sales of real estate for the non-payment of taxes or special assessment of any character, whatever,

shall exist," and so forth; don't you think there should be a right of redemption from tax sales?

Mr. VALENTINE. Yes; by all means.

Mr. HULL (Cook). "And the General Assembly shall provide, by law, for reasonable notice to be given to the owners or parties interested, by publication, or otherwise," and so forth. Do you object to reasonable notice?

Mr. VALENTINE. No, I want it in there.

Mr. HULL (Cook). The only sentence in that paragraph which is objectionable is, "Provided, that occupants shall in all cases be served with personal notice before the time of redemption expires."

Mr. VALENTINE. That is the objectionable feature of Section 5.

Mr. HULL (Cook). Is not occupancy a notice of interest and ordinarily considered in any legal proceeding?

Mr. VALENTINE. That has been the stumbling block in securing any kind of deed in Chicago..

Mr. HULL (Cook). If that last sentence were taken out, the balance of the section would not be objectionable?

Mr. VALENTINE. I do not see anything objectionable. Section 4 should be so remodeled that the taxes are automatically forfeited on sale. Some states have a method of forfeiture to the state for these taxes; not as we use the term forfeiture, and others a sale. The state of California says that property becoming delinquent shall automatically be sold by the county collector by a mere declaration of sale. Of course, due time for redemption is provided, as we want here.

Mr. HULL (Cook). You do not object to a section that the return of such taxes shall be made to some officer of the county?

Mr. VALENTINE. No.

Mr. HULL (Cook). You would simply add to the section as now written that the sale shall be made to the State for the amount of the taxes?

Mr. VALENTINE. Yes; unfortunately, the State cannot enter the sales except as a competitive bidder.

Mr. HULL (Cook). Would not the State hold that land without the payment of taxes?

Mr. VALENTINE. Possibly for the two year period, but the right of redemption—I believe that something could be done there in regard to the old forfeited property. For instance, property that has been offered previously and forfeited for want of bidders and has this cloud upon it, is practically abandoned, the owner has simply thrown up his hands.

Mr. HULL (Cook). What I am driving at is this: That the difficulty is that the courts have always been reluctant to enforce forfeitures, is not that true?

Mr. VALENTINE. Yes, that is true.

Mr. HULL (Cook). It is against the feeling of the community, and would not you have exactly the same difficulty under the provisions that you are suggesting?

Mr. VALENTINE. I think not, Senator, for this reason: If the court under our present laws would enforce the forfeiture at a sale and give a valid deed, or declare the tax buyer's deed valid—there is no other consideration at all for that sale; under this operation we suggest, the full value of the land, or approximately so, would be derived from that sale; at least a full fair proportion of the value, and the State would reimburse itself and to whom taxes were due, and the balance would revert to the holder of the fee. We are giving him his equity in it.

Mr. HULL (Cook). I do not see much difficulty with these two sections of the old Constitution. My feeling is that the difficulty is an inherent one to human nature; they are reluctant to enforce forfeitures.

Mr. VALENTINE. We tried it out at various sales, and we found that the courts will not stay with us when they figure it is a question between private individuals.

Mr. HULL (Cook). Is there any precedent in the principles of other states that is enlightening to us in this matter?

Mr. VALENTINE. Yes, I think I would have no trouble in citing to your Revenue Committee any number of them, Senator.

Mr. LINDLY (Bond). Would not the objection to the forfeiture be overcome by the fact that you suggest that the State pay back the residue of the money that the land brings, and under the present forfeiture the tax buyer takes it and keeps it all.

Mr. VALENTINE. Yes, for three years' taxes, while under the system we propose the State would take nothing from the owner of the fee except that which is its just due, and which is contemplated in section 1 of article 9 of the Constitution.

Mr. DAVIS (Cook). Practically speaking, in Cook county, the operation of the law which was in existence prior to the last amendment, that worked out pretty well, didn't it? I mean before the amount of the penalty was reduced by law—it did not work then.

Mr. VALENTINE. Before the penalty was reduced by law, we had a fairly representative tax sale. They won't buy property that is subject to a previous cloud. Twenty or twenty-five years ago a buyer would buy property that was clouded thinking he was going to get something out of it; that did not work, so for the last fifteen or twenty years they have shunned any piece of property that has a previous tax deed on it.

Mr. DAVIS (Cook). The last piece of legislation aggravated the situation?

Mr. VALENTINE. Yes, they went on a strike. They refused to put in their money at 6 per cent, and the consequence is that all the money which would have been the result of those tax sales and which would have been immediately distributed to the various taxing bodies, is now on the forfeited list. That sum in special assessment alone is $989,000; that is the report made by Treasurer Gibbons to the city yesterday.

I certainly thank you gentlemen for your kind attention. (Applause.)

Mr. MILLS (Macon). I move that a vote of thanks be extended to these gentlemen who have addressed us.

(Motion prevailed.)

Mr. DAVIS (Cook). I move that the Committee do now rise and report progress.

Mr. GALE (Knox). Your Committee rises, reports progress and asks leave to sit again.

(Carried.)

Mr. SHANAHAN (Cook). I move we now adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, March 3, A. D., 1920, at 10 o'clock, A. M.

WEDNESDAY, MARCH 3, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by Chaplain, the Reverend H. D. Helwig, pastor of the Central Christian church of Beardstown.

THE PRESIDENT. The Journal of the Convention for February 27th, 1920, was placed on the desks of the delegates on yesterday. That Journal is now subject to correction. There being no corrections proposed to the Journal of February 27th, 1920, the Journal for that day will stand approved as printed.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of special committees.

THE PRESIDENT. According to the rules, of course, the last day for the introduction of proposals was on last Monday.

Mr. ROSENBERG (Cook). May I ask the unanimous consent of the Convention to introduce a proposal?

THE PRESIDENT. The President would state in that connection Mr. Rosenberg mailed the proposal which he wishes to introduce to the President on day before yesterday, which was not received by the President until yesterday morning. The consent is given and the proposal will be received and read by the secretary.

Whereupon the Convention proceeded upon the order of first reading of proposals, second reading of proposals.

Mr. WHITMAN (Boone). I am requested by my colleague, Mr. Clark, (Lake) to ask for a leave of absence for this week from the Convention because of the death of his mother.

THE PRESIDENT. The record will show without objection that Mr. Clark is excused for the week.

Whereupon the Convention further proceeded upon unfinished and general orders of the day.

THE PRESIDENT. Before a motion to adjourn is made the President would announce that he is requested by the Convention reporter, Mr. Corris, to state to the Convention that the copies of the proceedings which have been placed on the desks of the delegates do not represent the proceedings in their final form, but is the proof form, from which the delegates may make any necessary changes which are apparent to the delegates as they may read the proceedings. If any error or discrepancy appears in the printed copy the delegates should call the attention of Mr. Corris to the error and Mr. Corris will change it before the proceedings in their final form will appear. This should be done, I would suggest, at a very early date in order that Mr. Corris may supervise the printing.

Mr. HULL (Cook). In the matter of correcting the report. Of course they should be made to conform to the facts, the things that were actually said on the floor of this Convention, but as a member of the legislature I have seen corrections made in reports of debates that did not conform to the facts, and I hold that there should be no effort made to change the stenographic record, and I think that there should be some responsibility on the part of the same committee to see that suggested changes do not alter the truthful report of the proceedings of the Convention. I do not know whether there is any committee that has any jurisdiction of that matter or not; it seems to me there should be a committee; I speak this word now because I have had occassion to notice corrections made of stenographic reports of legislative proceedings that I think were unfair to the parties.

THE PRESIDENT. The general impression that the President had was, that the corrections to be made were verbal corrections in the copy, and not changes in the record.

Mr. HULL (Cook). I understand that, Mr. President, but I felt like saying that at this time because I have seen changes made before that ought not to have been made.

Mr. CUTTING (Cook). Do I understand that Mr. Hull makes a motion that a committee be appointed?

THE PRESIDENT. It is a suggestion, as I understand it.

Mr. HULL (Cook). Yes; just a suggestion .

Mr. CUTTING (Cook). Then I make the motion that such a committee be appointed of such size satisfactory to the President, that shall take charge of these matters.

Mr. HAMILL (Cook). I move as a substitute that the reporter be instructed whenever a suggested change is made to him, that if there is any question about the propriety of the change that he refer that question to the President of the Convention. I move that as a substitute motion.

Mr. TRAUTMANN (St. Clair). I do not believe that the substitute motion should prevail. I think the original motion should prevail, for this reason: As we all know, a large part of the time when this Convention has been in session of the Committee of the Whole the President of this Convention is not in this room; necessarily could not be; he has other duties to perform and he is back in his own room, and it seems to me it would be much better to have a committee appointed who would be upon the floor of this hall when the committee is in session; of course, he will be here when the committee is in session; we know that most of the debates, arguments and proceedings will be in the Committee of the Whole and not in the Convention, and for that reason I think it is better to have a committee than to put this work upon the President.

Mr. SUTHERLAND (Cook). I favor the appointment of a special committee for the reason suggested by the gentleman from St. Clair (Mr. Trautmann); it seems to me, however, that the proceedings of the Convention, the debates of the Convention are slightly less important than the Journal, and when it becomes necessary to correct the Journal opportunity is offered on the floor of the Convention. It seems to me that a rule might well be reported by the Rules Committee, and if it is necessary I will make the motion, that a rule be adopted and that it be referred for action to the Rules Committee, that whenever it is necessary or desired by any delegate to correct the debates, that he arisé at the proper time in the proceedings of the day and make such request and that it then be referred to the committee.

Mr. HAMILL (Cook). The remarks of the delegate from St. Clair (Mr. Trautmann), persuade me that the motion I made as a substitute is unwise, and I desire to withdraw it, with the permission of the President.

(Withdrawn.)

Mr. HAMILL (Cook). Do I understand that the motion of Mr. Sutherland was to refer it to a committee?

Mr. SUTHERLAND (Cook). I made no motion, merely a suggestion.

Mr. HAMILL (Cook). I make the motion then, that the motion of Mr. Cutting (Cook), be referred to the committee on Rules and Procedure.

Mr. McEWEN (Cook). I rise to a point of order, Mr. President. I desire to call your attention and that of the delegates to rule 8 on page 8 of the rules, which under the heading of "The President" reads: "He shall examine and correct the Journal before it is read; and the same shall be printed and placed upon the desks of the delegates. He shall have general direction of the hall." Then division VIII on page 19, rule 51 reads: "Under the supervision of the Secretary a daily Journal shall be printed and placed upon the desks of the delegates. The debates of each day shall be printed under the supervison of the President and placed upon the desks of the delegates as promptly as possible." It would seem that the fair inference of those rules is that the power already rests in the President to supervise, and that includes the correct making of the record of this Convention.

THE PRESIDENT. Does the delegate from Cook (Mr. McEwen) take the position that the motion of Delegate Hamill (Cook) is out of order for that reason?

Mr. McEWEN (Cook). Yes; that both motions are out of order; that it should be provided for in a rule. Delegate Hamill's could be in order, but Delegate Cutting's would not.

THE PRESIDENT. The motion of Delegate Hamill (Cook), is the motion before the House, and the point of order is premature, at least. The question is upon the motion of Delegate Hamill to refer the motion of Delegate Cutting (Cook), to the Committee on Rules and Procedure.

(Carried.)

Mr. GREEN (Champaign). I move the Convention now adjourn.

(Motion prevailed.)

Whereupon, the Convention took an adjournment until Thursday, March 4th, A. D., 1920, 10 o'clock, a. m.

THURSDAY, MARCH 4, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, the Reverend H. D. Helwig, Pastor of the Central Christian Church, Beardstown, Illinois.

THE PRESIDENT. The Journal of March 2, 1920, was placed on the desks of the members on yesterday; the Journal for that date is now subject to correction. There being no correction offered the Journal of March 2, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, first reading of proposals.

Mr. REVELL (Cook). I ask unanimous consent to introduce two proposals.

(Granted.)

Whereupon the Convention further proceeded upon the order of motions and resolutions.

Mr. JARMAN (Schuyler). On last Thursday I made a motion which was referred to the Committee on Rules. I now ask leave to withdraw that resolution from the Committee on Rules for the purpose of amending.

THE PRESIDENT. To what resolution does the delegate refer?

Mr. JARMAN (Schuyler). The resolution reading that after the first day of March, 1920, except as otherwise ordered, the Convention meet at 10 a. m. on each day, except Sundays and Mondays.

Mr. TRAUTMANN (St. Clair). I do not know of any rule of parliamentary practice where this proceeding can be had. If the delegate desires to offer an amendment, my suggestion is that he appear before the Committee on Rules when the committee is considering his resolution, or offer a new resolution now. He might make a motion that the Convention order the Committee on Rules to report, but I do not know of any proceeding by which he can offer a motion withdrawing his motion when this Convention hasn't it in its possession; it is in the possession of the Committee on Rules. He can offer a new motion or go before the Committee on Rules. I make that point of order.

THE PRESIDENT. The point of order is well taken.

Mr. JARMAN (Schuyler). I move then that the committee be discharged from the consideration of this resolution.

Mr. GREEN (Champaign). I move that this motion to discharge may lie on the table.

Mr. JARMAN (Schuyler). I rise to a point of order of no quorum, and ask for a roll call of the Convention.

Mr. BRENHOLT (Madison). Mr. President, I got in late this morning, and I now ask that Delegate Baldwin (Cook), be excused from further attendance this week, due to the fact he has a business engagement in Kentucky, and was compelled to leave on that account.

Mr. BARR (Will). I desire to ask leave for my colleague, Mr. Corlett (Will), who is unable to be here.

Mr. CORCORAN (Cook). I ask that Mr. Pincus be excused for the remainder of the week.

Mr. PADDOCK (Sangamon). My colleague, Mr. Conkling, is sick at home, and I desire to ask leave of absence for him.

Mr. DAWES (Cook). I have a telegram from Judge Dupuy, saying that he was peremptorily called to Chicago last night. I wish to ask leave for him on that account.

Mr. DUNLAP (Champaign). I suggest that it be in order to excuse those not present at roll call on account of business.

Mr. WHITMAN (Boone). I have a communication from Judge Cutting asking that he be excused for the balance of the session, this week, on account of peremptory business in Chicago.

Mr. WALL (Pulaski). I desire to ask leave of absence for Mr. Gee and Judge Pearce, account sickness and business, respectively.

Mr. SMITH (JoDaviess). I desire to ask leave for Mr. Stahl, who is absent on account of sickness in his family.

Mr. RINAKER (Macoupin). I would like the record to show an excuse for my colleague, Judge Dryer, on account of business.

(Leave granted in each instance.)

Mr. BRENHOLT (Madison). I move that we recess for fifteen minutes to give the delegates who are in the capitol building an opportunity to get in the room. I rise to a point of order.

Mr. JARMAN (Schuyler). Such a motion is out of order during roll call.

THE PRESIDENT. Call the roll.

(The Secretary calls the roll.)

THE PRESIDENT. A quorum is present. The question is on the motion of the delegate from Champaign, Mr. Green, that the motion of the delegate from Schuyler, Mr. Jarman, lies on the table.

(Motion prevailed.)

Whereupon, an adjournment was taken by the Convention to Tuesday, March 9th, A. D., 1920, at 10 o'clock, a. m.

TUESDAY, MARCH 9, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, Reverend Harry B. Lewis, Pastor of the First Methodist Church at Kewanee, Illinois.

THE PRESIDENT. The Journal of Wednesday, March 3, 1920, was placed on the desks of the delegates on Thursday, March 4, 1920. The Journal of March 3, is now subject to correction. There being no corrections proposed the Journal of March 3, 1920, will stand approved.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, first reading of proposals, second reading of proposals, motions and resolutions.

Mr. GOODYEAR (Iroquois). Mr. President, it is with deepest regret and with a sad heart that I have to announce to this Convention on yesterday afternoon my colleague and your fellow worker, Senator Edward C. Curtis died at his home at Grant Park in Kankakee county.

This comes as a great shock to me and to all of you, and I would like at this time and on this occasion if I were able to express to this body my high appreciation of his wonderful character, of the things he has accomplished under very difficult circumstances; I feel I cannot do this, but I have the honor, and I now offer to this Convention the resolution dedicated to his memory and out of respect to him, and I move its adoption.

RESOLUTION No. 24.

WHEREAS, On yesterday afternoon, Almighty God out of his infinite providence called from his earthly labors to the better life our fellow-worker and member, the Hon. Edward C. Curtis, a delegate to this Constitutional Convention from the Twentieth Senatorial District and a resident of Grant Park, in the county of Kankakee, and,

WHEREAS, We recall that more than fourteen years ago, Senator Curtis introduced in the legislature a resolution to call a Constitutional Convention which he believed would result in giving to the people of the State of Illinois wider liberties and a better government, and ever afterward used his efforts and experience to procure the adoption of a resolution providing for such Convention; and due to his efforts more than to the efforts of any other individual this Convention was called, organized and is now assembled, and,

WHEREAS, We realize that by his death we have lost one whose rare ability, broad judgment and high purposes were conceded by all who knew him, one whose wise counsels we have sought, and one whose life his constituents honored by calling him to positions of high responsibility and trust; and,

WHEREAS, In his private life, Senator Curtis was a man among men, clean and pure in thought, in word and in deed, always upholding all that was good, beautiful and true; that as a member of the General Assembly of Illinois for more than a quarter of a century, he leaves behind him a record of accomplishment that no other legislator of his time has excelled, fearless in the discharge of his duty, courageous in the advocacy of public measures, indefatigable and tactful in his labors, he has left an indelible impress upon the legislation and administration of this State, his name being identified with all of the constructive measures enacted in this State during the last quarter of a century. Public clamor and unjust and unfair criticism never

swerved him from the assertion and promotion of measures which he deemed to be fair, just and true. Amiable in disposition, lovable in character, steadfast in friendship, he endeared himself to his friends both in public and private life. Therefore be it

Resolved, That this Convention expresses its deep regret at the loss of one of its most useful and honored members, and at the loss to the people of the State of Illinois and to his community of one of its best citizens and ablest statesmen, and that it extends its heartfelt sympathy to the members of the bereaved family; and be it further

Resolved, That a committee of fifteen members be appointed by the President to represent the Convention at the funeral; that this preamble and resolution be entered on the Journal of the Convention; that a suitably engrossed copy thereof be forwarded to the family, and as a further mark of respect to his memory that the Convention do now adjourn.

Mr. SHANAHAN (Cook). Mr. President, Members of the Convention: Death has again laid its heavy hand on the membership of this Convention and taken from our midst one of the most beloved and able members, Edward C. Curtis.

I have known Mr. Curtis for over a quarter of a century, and during that time he served as a member of the General Assembly of Illinois. Born within its borders, educated, in the public schools and the colleges of this State, he grew to manhood and at an early age became interested in political affairs and in 1894 was elected as a member of the 39th General Assembly, and served continuously from that date until the present time. In 1897 in the 40th General Assembly he was elected as Speaker of the House, being the youngest member at that time elected to that important position. He served in the House until 1904 when he was elected to the Senate, and served in the Senate from 1904 until 1919. For more than a dozen years he advocated the calling of a Constitutional Convention in this State to amend or alter the present Constitution; defeated for a number of years in his effort, he continued until at last he was successful in having that resolution passed in the 50th General Asembly, and in the 51st General Assembly he introduced a bill providing for the calling of this Convention, and was elected as a member from the Kankakee district.

During his long service in the General Assembly I know of no man who served the State more faithfully and honestly than Senator Curtis. Early in his legislative career he took a great interest in the Appropriation Committee and had the honor of serving as chairman of the Appropriation Committee in the House and chairman of the Appropriation Committee in the Senate. He was well versed in the financial affairs of the State; he had watched the various institutions grow during the years he served in the General Assembly, and I know of no man who had more friends in every session of the General Assembly than Senator Curtis. He had rare and splendid qualities. Nature had made of him a great man. He had a fine temperament; I never knew of an hour when Senator Curtis was angry or that the smile had faded from his face. He and I differed many times during our career in the General Assembly, but he was always honest and sincere in everything that he advocated.

He was a great business man in addition to being a splendid public official. He was a faithful and loving husband, a proud father and splendid citizen of his community and this State. He was a strong and faithful friend and ally and never wavered in his friendship. Illinois has lost a great citizen; the General Assembly of Illinois has lost a fearless senator. This Constitutional Convention has lost probably one of its ablest members. He is gone but not forgotten, and as long as time shall exist the people of the State of Illinois will remember Senator Curtis for what he was, a real man. God's will not ours, be done.

Mr. HULL (Cook). Mr. President, may I, as one who served with Senator Curtis in the Senate, be permitted to join in seconding the adoption of this resolution, and also be permitted to say a word of respect to the memory of Edward C. Curtis.

During my membership of the Senate, Senator Curtis was chairman of the Appropriation Committee, a position which called for industry, tireless industry, and Senator Curtis gave to the work that very quality of tireless industry. His interest in the work of that committee, however, did not bar him from interest in other legislative matters, and as has been stated by Mr. Shanahan, he was particularly interested in a revision of our State Constitution. His was the resolution that resulted in the popular vote in 1918 and his was the act of the legislature under which this Convention is now in session. His abundant experience as a member of the legislature for many years made him a man who might have been of exceeding value and helpfulness to the deliberations of this Convention. The State has lost the possibility of great service in his untimely death. Patient, kindly, gentle in his attitutde toward all, he made friends in spite of differences of opinion among the members of the legislature. Those are great human qualities, and those were the qualities of Edward C. Curtis. Mr. President, I take pleasure in joining others in seconding the adoption of the resolution.

Mr. TRAEGER. God has seen fit to remove from our midst one of our members. Though I have not had the honor to be a member of the House or the Senate, I have known Senator Curtis for upwards of twenty years; known him as an able, honest and upright citizen, a man who was a credit to himself, his friends, and the great State of Illinois. His death will no doubt be felt by the majority of the people of this great State, and because of his wise counsel from time to time his death will not only be a loss to his community and the State, but to be deprived of his able advise will be a great loss to this Constitutional Convention.

Mr. WALL (Pulaski). I cannot but feel it a duty to the south end of Illinois to add a word on the present occasion of approval of this resolution.

Senator Curtis was known and loved all over the State. I have known him for twenty years before coming to this Convention; watched his public career, heard much of his private life, and it cannot today be covered with sufficient econium to give it the merit it justly deserves.

Senator Curtis was a man not only of action, but of systematized action. He looked forward to the accomplishment of an object, and in securing that accomplishment he was a hard worker, a great thinker, a man of almost unerring judgment, and only a few days ago I sat with him at my desk, where during a recess of this Convention he told me of the very private conference he had had at his home and at his office with himself and his Maker with reference to the calling of the Convention that now is here constituted, with reference to the early history, of the first necessity of this Convention and his own individual efforts to bring it about.

Mr. President, the needle to the compass of Life's endeavor properly directed, like the needle to the compass of Patriotism does not always point in a single direction, but it circles around the entire periphery of the wheel, touching every point that is sought to be reached, and so our deceased delegate, Senator Curtis, when he first introduced a resolution to call a Constitutional Convention back, I believe in 1904, and insistently kept up his interest as a public legislator all this time down to the time when the Convention was called under the law, sitting in the silence, as he said to me, communing with himself and his Maker, absorbing those higher thought powers, sitting in the silence entertaining those thoughts with reference to this Convention, he worked out the plan of this Convention, and every member of it is under more obligations to him than any other living man for the office we hold, for the responsibilities we are incurring, for the kind of a document we will give to the people. Sitting there with that calm deliberation and the princely councel that showed in his face, he solved the problem and he was happy. He felt he had accomplished a purpose in life. Great honor, great credit is due this man. It reminds me, Mr. President, in trying to describe him, of the language of the great Bishop of Exeter. He said,

"Give us men! Strong and stalwart ones.
Men whom highest hope inspires,
Men whom purest honor fires;
Men who trample self beneath them
Men who make their country wreathe them
As her noble sons, worthy of their sires.
Men who never shame their mothers,
Men who never fail their brothers,
True, however false all others,
Give us men."

Grant Park is in mourning today, Mr. President. Senator Curtis was universally beloved at home. He was a man of great charity and great benevolence. He was a man, like another poet said, "Men who cast their bread upon the waters, far and wide their treasures strow, and laugh with joy to see it go." Such an one is he whose loss we feel today, and we can truthfully say in the language of another author, as we look at his tomb,

"Old gray sod, lie light, lie light,
"Good night, dear heart, good night, good night."

I take pleasure in seconding this resolution.

Mr. BARR (Will). As a very close personal friend and neighbor of Senator Curtis, I just want to say one or two words about his home life and his position as a friend.

I knew Senator Curtis much more closely as a personal friend and neighbor than I did as a public servant or a member of the legislature or of the State Senate. Of course, I knew him in a general way in connection with his official life, but I knew him very closely in his private and home and business life.

Senator Curtis' career and his life had a very solid and firm foundation. It started at home, in the community and extended on up into State and National affairs. His home life was so very beautiful. His association with the members of his family was unusual. His standing in his own community, among his neighbors and his friends, was very high; he was a very powerful factor and a very strong person in his own community in the small matters in his own town and his own county, and in that connection I came in contact with him and knew him most closely.

The State of Illinois will miss Senator Curtis. It is a great loss to the public life, the public service of this State, his death, but the greatest loss is in the home community where he wrought so faithfully and so consistently and so energetically always for the important things, the best things, in his own community and in his own county, and so as a neighbor and as a close personal friend I desire to second the adoption of this resolution offered to the memory of Senator Curtis, a member of this body.

Mr. GALE (Knox). I have no right to speak on this resolution in a certain sense, because I have not known Senator Curtis long, although I have known of him for many years, but I believe it is fitting that some tribute should be paid by one who met him only recently personally and who never knew him until the last few weeks, because of the deep impression which he made upon me in that short time, an impression which I think he made on all of us who met him, as I met him, only recently. I had come in that short time to feel for Senator Curtis a real affection, and I believe that that statement of that great prophet of old was true of him and that he followed those words, "And what doth the Lord require of thee but to do justly, and to love mercy, and to walk humbly with thy God."

Senator Curtis, able citizen and good friend has left us to go to that far country whose aspect we cannot know, but where we may believe that the sky is bluer and the atmosphere clearer and thought more direct, and where the same qualities which inspire trust and respect and confidence may have fuller and complete sway.

"A little work, a little play to keep us going, and so—good day.
"A little fun to match the sorrow of each day's growing, and so—good morrow.
"A little trust that when we die we reap our sowing, and so—good bye."

Mr. COOLLEY (Vermilion). As a citizen of the State of Illinois and a neighbor of Senator Curtis I wish to speak of the courtesy he has always shown to his fellows as a man.

If I am correctly informed, the first great fundamental law was written by Moses, and at the end of his career it was his lot to be lead up unto the mountain where he could look over into the land of Canaan and allow his people to pass on. We are here to enact or alter the fundamental law, as a direct result of the efforts of our friend and honored citizen, Senator Curtis, and just at the moment when we are expected to pass on into the coveted land he has been called upon to pass down the dark valley; and this is another tragedy in history. I wish to second the motion.

THE PRESIDENT. Out of respect to the memory of our distinguished fellow worker, I will ask the Convention to rise in approbation of the resolution. The vote upon the adoption of the resolution is unanimous, and after the announcement of the Committee of Fifteen to attend the funeral the Convention will stand adjourned until tomorrow morning at 10 o'clock.

The President appoints the following delegates to attend the funeral of Senator Curtis: Delegates Goodyear, Mighell, Coolley, Dunlap, Green, Barr, Hull, Lindly, Corlett, Gale, Shanahan, L. C. Johnson, Tanner, Baldwin and Wall.

Pursuant to the resolution the Convention will now stand adjourned until 10 o'clock tomorrow morning.

Whereupon an adjournment was taken by the Convention to Wednesday, March 10th, 10 o'clock, A. M.

WEDNESDAY, MARCH 10, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain the Rev. Harry B. Lewis, pastor of the First Methodist church of Kewanee, Illinois.

THE PRESIDENT. The Journal of Thursday, March 4, 1920, was placed on the desks of the delegates on yesterday. The Journal of that date is now subject to correction. There being no corrections proposed, the Journal of March 4, 1920, will stand approved.

Mr. REVELL (Cook). I ask the indulgence of the Convention, and unanimous consent to present a proposal, and at the same time I will promise that this will be the last proposal I will ask the favor of presenting.

(Leave granted.)

Mr. MACK (Hancock). I ask the unanimous consent of the Convention to introduce a proposal.

(Leave granted.)

Whereupon the Convention proceeded upon the order of reports of standing committees.

Mr. BECKMAN (Cook). The Committee on Military Affairs desires to submit its final completed report.

Your Committee on Military Affairs to which was referred Proposals numbered 14, 112, 234, and Article 12 of the Constitution of 1870.

Reports the same back with a substitute therefore, being Proposal No. 339, a proposal to provide for the militia.

And recommends that the original proposals, above enumerated, be rejected, and that the substitute Proposal No. 339 be placed on the General Orders.

(Signed) WILLIAM H. BECKMAN,
ABEL DAVIS,
WILLIAM T. HOLLENBECK,
MACK TANNER,
JAMES NICHOLS,
CHARLES B. T. MOORE,
E. B. COOLLEY,
WM. H. CRUDEN,
Committee.

With such report the committee submitted on separate paper a recital of facts, with an argument as follows:

SPRINGFIELD, ILLINOIS, March 9, 1920.

To the Honorable, the Delegates of the Constitutional Convention:

Your Committee, to whom was referred Article Twelve (12) of the Constitution of 1870, have given careful study to each and every provision thereof and after much discussion and with the help and advice of those who have been in military authority in State affairs for the last decade, we have concluded that the first five sections of said article are understood, applicable and easily workable.

Section Six (6) seems to have outlived its original purpose and outworn its usefulness. At the time that section was adopted, there was probably some potent reason for it. The experience of mankind through the world-war has demonstrated the fact that there are men who sincerely have conscientious scruples against bearing arms, hence we have submitted a substitute providing that such man may serve in any capacity declared by the Commander-in-Chief to be non-combatant. The substitute provision submitted requires of each man a contribution of personal service and eliminates his possibility of employing anyone else to serve for him.

Respectfully submitted,

WILLIAM H. BECKMAN,
Chairman Committee on Military Affairs.

THE PRESIDENT. In accordance with the rule the report of the Committee on Military Affairs is ordered to lie on the table and to be printed.

Whereupon the Convention further proceeded upon the order of reports from select committees, second reading of proposals, motions and resolutions, and unfinished business.

THE PRESIDENT. Several days ago the Convention fixed upon today as a day to go into the Committee of the Whole for the purpose of hearing from the educators of the State and from others on the question of revenue, as that question affects the educational institutions of the State. The Convention will now resolve itself into the Committee of the Whole for the purpose of that hearing.

As presiding officer and chairman of the Committee of the Whole, the President will designate Delegate Brandon, chairman of the Committee on Education. Chairman Brandon will please take the chair.

(Delegate Brandon takes the chair.)

CHAIRMAN BRANDON. Gentlemen of the Committee: There are some of us who believe that the State should devote more funds to education than has been its custom in the past. Some of the representatives of the school system are here today to plead to that effect. In order to save the time of the Convention and of the committee it has been arranged that this hearing today shall be two-fold in its effect; first, that certain representatives of the school system shall have an opportunity to argue to this committee on the needs for more funds for school purposes in the State, and at the same time partly by expression from them and partly by questions we may bring out whatever may be necessary for a proper consideration of the proposals which are before the Committee on Education, so that one hearing will be sufficient for the entire session of the Convention in anything dealing with educational matters.

If the gentlemen of the committee will familiarize themselves with the proposals which have been referred to the Committee on Education, they will find that these ladies and gentlemen who are here to speak to us today on behalf of the school system will be prepared to answer such questions as you may see fit to ask to bring light on these proposals.

The parties who are to address us are at this time in conference in the office of the State Superintendent of Public Instruction, and I have sent word to them to come up, and I presume it is the sense of the committee that they be admitted to the room and be allowed to sit among us during this hearing, because if the witnesses are collected together as the expressions are made there will be less likelihood of repetition on the part of the speakers.

This hearing is under the supervision not only of the Committee on Education, but of the Committee on Revenue, and I will ask that Mr. Gale (Knox) will come forward to assist us. Mr. J. O. Engelman of Decatur has been asked to assist in the presentation of the program in order that it may be as logical as possible.

I take pleasure in introducing to you as the first speaker Mr. Francis G. Blair, the state superintendent of public instruction. (Applause.)

Mr. BLAIR. Mr. Chairman, members of the Education and Revenue Committees and members of the Constitutional Convention: I want to thank you on behalf of the State Teachers Association and the school forces of Illinois for this hearing. We think that we represent the one greatest single institution that the Commonwealth has, an institution that operates in a physical plant which is roughly estimated at a value of over $200,000,000, in which there are enrolled over a million of the boys and girls of this great Commonwealth, practically one-fifth of all the citizenship of the State, an institution that is administered by about 45,000 school officers, that is instructed by 35,000 teachers, that costs annually about 50 millions of dollars to operate it; we think it is the one great institution that the commonwealth has founded and is fostering. On behalf of this institution and this Teachers' Association, which represents in a big way that institution, I wish to thank you for this hearing.

We come before you simply to make recommendations, to let you know what are our feelings and our opinions upon certain proposals which will

come before you to be incorporated into this great organic law. I do not know what you gentlemen think about the situation, but I have come to believe that this Constitutional Convention will have proved it is worth every dollar it cost, even though there should not be a single change in a single word of the Constitution; I know there will be certain changes, but it will have great value in bringing before the people of the State the provisions of our present Constitution. We will look behind every feature of it. We will go over it and test it. Some of these proposals before you here relate to education, and it is our purpose to address ourselves mainly to these proposals. Some of these relate to the superintendent of public instruction, and it is my purpose first to speak upon them. Some of these proposals have for their objective the taking of the superintendent of public instruction, the chief educational officer, out of the Constitution, out of the executive article and making him an appointive officer in the State, and I wish first of all to address myself to that proposition.

Mr. WALL (Pulaski). Would you give us the numbers of these proposals?

CHAIRMAN BRANDON. I do not have them on the desk here. The digest shows the proposals by numbers. In the index it shows those dealing with education, and then all the proposals by number which have been referred to that committee; they are proposals numbers 10, 24, 27, 35, 61, 84, 99, 130, 131, 139, 182, 200, 214, 231, 235, 238, 255, 258, 271, 334; in the first index of the digest you will find them numbered under the head of education.

Mr. BLAIR. Some of these proposals are to continue the superintendent of public instruction in the Constitution just as he is in the present Constitution; others are to make him appointive, and the State Teachers' Association is recommending that the superintendent of public instruction remain a Constitution officer elected by the people. That is my own opinion officially and personally, and I wish to bring before you some of the reasons for the making of this recommendation.

First of all, let us consider the situation in the United States as it now is, respecting the way in which the commonwealths select their chief education officer, by whatever name he may be called—we have 48 states, only one of them has no superintendent of public instruction; that is the State of Delaware; 37 of them have a superintendent of public instruction or an official by some other name; now, 13 of these 37 States select their chief education officer by some other method than election by the people, and I wish to call your attention to those 13 states; I have a map here drawn and if the gentlemen will hold it up you may see a little better as I explain it. You will see the 13 states which select their chief education officer by other methods than election by the people are the New England States, the Middle Atlantic States, Maryland, and three States west of the Allegheny mountains. They are in the main States beyond the Alleghenies, the old States that formed their educational systems early, in most of which all the officers except Governor and lieutenant governor were appointed, and they adopted in the main the appointive system. Those states colored in red appoint their chief education officer by a board of some form or other, and the one colored yellow, which is Vermont, elects its chief education officer by means of the legislature. These are the States which formed their educational institutions early and they have adopted that plan, though every decade the number that appoint their superintendent of public instruction grows less. In 1909 there were nine that appointed their chief education officer by the governor; five of those states left the plan in the ten years that have just passed, and Ohio has gone from election by the people to appointment by the governor, and one State, Iowa, has gone in that ten years from election by the people to election by a board, and then after a trial of six years has gone back to the plan of election by the people.

Now, gentlemen, whenever a proposal is advanced to change an existing condition, it is incumbent upon those who propose it to advance argu-

ments and facts sufficient to show that the new plan is clearly a better plan than the one that exists. If that cannot be shown, then you are not warranted in changing from a system with which we are familiar and to which the State has become accustomed in over sixty years of practice to take up something new, just because it is new. Mark Twain says, "There is a human disposition that when we have a pain in one part of the body we always think that we would be better off if we had that pain in some other part of the body," and yet, I am disposed to think kindly of people who bring forward a proposal to change an existing order, but I want them to adduce prepondering evidence that their new proposal is clearly better than the one that exists.

Let us take up a brief survey of the position of the Superintendent of Public Instruction in Illinois: In the Constitution of 1818 there was no reference to education whatever. In the Constitution of 1848 there was no reference to education whatever. In the Constitution of 1862 there was a reference to education, but that Constitution failed, and in the Constitution of 1870 there were ample and large provisions made for education, as I come to believe are as generous as have ever been introduced in any Constitution in the United States, and I have read every one of them, within the last year or two.

In 1830 there arose a demand that Illinois should have some kind of general education officer who should help to develop sentiment and look after the system in a general advisory and supervisory way, and at an educational convention held in Vandalia in which sat Stephen A. Douglas and Abraham Lincoln, a convention not representing the teachers of the commonwealth only, but the upstanding men of this State; they there resolved that what Illinois needed was some central education officer to see that education sentiment should be developed and to see that each boy and girl got an even start at education. It raised money and sent a man over the State of Illinois in a private sort of capacity gathering data for the legislature and helping to arouse education sentiment. Out of that came a proposal to appoint a superintendent of public instruction; the legislature made the Secretary of State ex-officio superintendent of public instruction, and I want to bear testimony to the valuable services of those men, who, with large duties upon their shoulders, undertook as a side line this great work of finding out what the needs of public education were in the State and of making recommendations to the legislature, and they recommended that the legislature should arrange for an election of a superintendent of public instruction who should be the head of this State system of public education, but not until 1854 did that event occur, and in the special session of the General Assembly called at that time they made provision for a State superintendent of public instruction. First of all a man was appointed to fill out the vacancy until the next general election in 1856, and then began the system of electing superintendents of public instruction in the State. Ten different officials have administered this office and under it in sixty-six years has developed the system of education which we now have, not perfect, having large short-comings, not perfect by any means, but under this system, as existing for sixty-six years we have the system that has developed up to the present time.

Now, what are the arguments offered by the people who propose to change from an elective system to an appointive system? They first say that under the elective system we are prevented in Illinois from selecting a man from any other State; if we had him appointed by a board or by the Governor then we could go outside the State and select anyone, the best qualified person in the United States. I grant, gentlemen, there is value and virtue in that argument, but it is mainly academic, it does not stand the test of comparison with actual facts. Now, take the 13 States, which should be increased by about five, how many of those States with the appointive power have ever exercised the right to go over the country and select men from the outside?

So far as I know only three of them have ever done so, for I would not count New York, calling Andred Draper back to New York from Illinois University; Massachusetts went up into Maine and took Payson Smith and made him Superintendent of Public Instruction of Massachusetts; New Jersey came out to Indianapolis and took Calvin Kendall and made him Commissioner of Education of New Jersey; Pennsylvania has just gone up to New York and taken a deputy superintendent of public instruction, Thomas Finnegan, and brought him down to Harrisburg at a salary of $12,000 a year; those are the only cases that I know of.

But, is there any assurance, gentlemen of the Convention, that by going outside the State you will get better persons? It may be that you will, but there is always a danger in that sort of process. I know a man in Illinois who is counted the most certain in his judgment of a teacher, President L. C. Lord; he has the reputation of having superior teachers, and yet when we complimented him upon that, he said, "Gentlemen, I blush to tell you that out of every five teachers I have selected, two of them have been failures." You may bring in a man from the outside of the State that will be a success, and in the three cases I have pointed out, two of the gentlemen have already proved themselves successes; the other is in the experimental stage, and we cannot speak of it until a longer period has elapsed. We are bringing men and women into Illinois every year, upstanding men and women, and after they have been here one year they have the right to offer themselves for the position of Superintendent of Public Instruction under the elective plan. While I am willing to say that the appointive plan in going outside the State has some value, I would not give my assent to the proposition that the selection by a board of such an official is necessarily more certain to secure a better man than election by the people. Take our city boards over the State of Illinois. They have employed men and discharged them within five months. They have made failure after failure in the selection of men who are to supervise our great system of city schools. And if you want to test the relative accuracy of two systems in selecting men for the State office, all you have to do is to study the history a while and compare one with the other, and you will find the method of selecting by election has secured just as good men as the men who have been State superintendents of schools in the 13 States which appoint.

Take another argument which is offered: That is that the best men and women will not offer themselves under an elective plan, and to that argument also, gentlemen, I want to accord a degree of virtue and value. I know there are some men and women in Illinois that are pre-eminently fitted to be superintendents of public instruction in this commonwealth who would not submit themselves to election; they desire to keep away from any kind of public election, and yet in opposition to that I will say that if you will take the men in Illinois who have been superintendent of public instruction, beginning with the first one and coming down to the one that left the office in 1906 and compare them with any other ten men or women in the State of Illinois you will find that men have offered themselves for this office who were amply qualified in a scholastic and professional way, and that they have administered the office in a way that has been acceptable. These men who offer this academic proposition seem to have a queer notion about how men and women are selected for this office. A party does not go out with a rope and lasso a man and nominate him. Generally the dominant party has gone to the educational people of the State and asked who in their opinion was the man or woman who would be most acceptable to the school people of the State, and only one party has ever violated that theory, and this party about which I speak nominated a man against the recommendations of the State Teachers Association, a man who had taught three years, but who had been a lawyer for twenty years, and they nominated him, and put him out and the opposition party, though they lost every other candidate, elected their candidate for superintendent of public instruction. The dominant party usually does not want to put up a man who will be objectionable to the educational interests in the State, and

therefore they select a man for this office who has a standing with such educational interests.

Take William H. Powell of Peoria, a man with large experience, of fine executive and administrative ability; then came Newton Bateman, a great education officer, one of the greatest that this nation has produced; he occupied the office for fourteen years; a man who wrote five bi-ennial reports that elevated the education standards of every State in the nation and were translated into the language of five of the great nations of the world. How did they come to be nominated by a political party? The State Teachers' Association recommended William H. Powell and it recommended Newton Bateman. Take Henry Raab, a man of rare training in the German schools, and a man who improved greatly the elementary institutions in Illinois; take Richard Edwards, a man trained academically and professionally for this great work, a man who had taught in the Normal University and was known throughout the length and breadth of the State; take Samuel Inglis, a man not so extensively trained, but a man of rare personality and great executive ability, take Alfred Bayliss, a trained man of rare and sound experience who served in this office for eight years, and I say to you thhe election plan has worked well. There have been men chosen who were not well qualified, but all I am trying to say is there is no method under the heavens by which you can select the right man every time. There is a sort of idea among the people that you can change from the plan you have and erect some other sort of human machinery and get the thing perfect. Out of our universities came this civil service idea; in the atmosphere of our universities they will hatch out those ideas and then they will refuse to submit to them themselves; out of these universities came the idea that if you had civil service you would have a perfect organization. What happened? When we tried in Illinois to apply civil service to the State University of Illinois, they said we could not do it. A professor from the State university asks that the State superintendent shall be made appointive, but what does the university ask about its own board? They said that they would resent any effort to make the board appointive. They do not want the board to be under any one man's control. I agree with that position and I apply the same argument to the selection of a State superintendent of schools. The officer who is elected by the people has a confidence and a courage he may not have if he is appointed. He can go before the legislature and he can stand for laws and undertakings absolutely free, but if some man who appointed him has him by the coat-tail or coat sleeve there is a danger always he will be restrained from doing the things that he thinks he ought to do for the interests of the schools.

The third argument which may seem to be a corollary to the last one I mentioned is that we want to keep the schools out of politics, and therefore we want to take the superintendent out of the elective class and make him appointive.

Gentlemen, I have come to the conclusion that what the schools need more than anything else is to have their teachers, men and women, come out of their cloistered precincts and join business and social clubs and mingle with business people and learn what the real life is outside the school rooms. Politics, as I have come to know it, is not the kind of thing that some of these academically trained people think it is. They think that any man who associates with men in the political world becomes contaminated; I have reached the conclusion that the teachers of Illinois, and the education people are going into politics, and they are going to stay there. They are going to go about their business as nearly as they can through the ordinary political action and through no extraordinary or fantastic sort of way, and in this sense I do not conceive there is any desire, to take the chief education officer out of politics.

The fourth argument in favor of making the change is that it will give a greater security of tenure in office. That, too, is academic and does not square with the actual facts. Take these 13 States that appoint; I can take the other States of the Union that elect their superintendents and show their tenure of office averages as high as the tenure of office of those in the

appointive States; in the great City of Chicago the board of education has elected, I think, six or seven persons to the office of superintendent, and I can take some of these appointive States, and they have changed from two to five times in the period in which some elective States, have retained their superintendent of public instruction. It might be that the system would have been better if some of the elective officers had been changed oftener, but I am simply speaking to the point that so far as tenure of office is concerned, the elective plan has produced as long tenure as the appointive plan.

The fifth argument offered in favor of the change is not an educational one; it is in the interest of the short ballot, and I want to say that personally and officially, and I think I represent the State Teachers' Association, if this Constitutional Convention should decide to make all the officers of the State appointive except the Governor and Lieutenant Governor, that we would have no serious objection to having the chief education officer made appointive, but if you keep the other state offices elective and make the superintendent of public instruction appointive, we shall consider it in the nature of a degradation of the chief education officer of the State. These other men of the State meet about the table, called by the Governor, to consider affairs of State, and the superintendent of public instruction sits at that table, his advice is sought, his counsel is heeded. You make him appointive and put him in some other building, let him be subject to some appointive power and he ceases to be of equal value with the men elected, who get their power from the people. You men represent the State of Illinois. You are elected, you feel a certain power because you represent the voice of the people, and I believe without any demagogy, as the man last evening tried to make you feel, I believe there is power within the people and I believe every man who knows he has the sanction of the vote of his fellow citizens, feels a sort of independence and a certain power; therefore, I say to you that the State Teachers' Association will oppose any attempt to change the status of the superintendent of public instruction, unless at the same time the other officers outside of the Governor and Lieutenant Governor are changed in the same sort of way.

These are simply recommendations. We know that you gentlemen are seriously considering these matters, and at any time we would be glad to furnish data upon the subject that I have just discussed. Now, it is my purpose briefly to go over some of the provisions of Article 8, but I pause here at the conclusion of these remarks on the office of superintendent of public instruction with a view that some of the gentlemen may desire to ask questions on this particular proposal.

Mr. HULL (Cook). You are the superintendent of public instruction now?

Mr. BLAIR. Yes, sir.

Mr. HULL (Cook). And an elective officer?

Mr. BLAIR. Yes, sir.

Mr. HULL (Cook). How many times have you been elected, Mr. Blair?

Mr. BLAIR. I think four times.

Mr. HULL (Cook). You have no doubt about the security of tenure of your office as superintendent of public instruction under the elective system?

Mr. BLAIR. I am discussing this, Mr. Hull, absolutely impersonally, as if it was Mr. X.

Mr. HULL (Cook). You are expressing your own opinion, just the same?

Mr. BLAIR. Yes, I am, but I want it understood that I am discussing it impersonally.

Mr. REVELL (Cook). How many school districts are there in the State of Illinois?

Mr. BLAIR. Over 11,000; I could not say exactly, they have changed; there have been consolidations within the last year.

Mr. REVELL (Cook). How many school systems are there in the State of Illinois?

Mr. BLAIR. We have only one school system, but each one of the districts has a certain local autonomy and power to do its work; we have fourteen special charters that operate somewhat independently, but the general law affects every district in the State in a sense.

Mr. REVELL (Cook). In other words, if any township has eight or nine school districts, within each district there may be as many as five or ten different school systems by which organizations within a sparsely settled community may arrange for the employment of their teachers and arrange their own system of books and other things, is not that true?

Mr. BLAIR. There is a law which provides for the character of the school buildings in every district; they must conform to minimum requirements of sanitation, safety from fire, freedom from structural infirmities, and the superintendent of public instruction sets those minimum standards. There is a law that requires that teachers in every school of the State shall meet certain minimum standards of requirements. That is a State law which is administered by the superintendent of public instruction, the state examining board and the county superintendent in the several counties. The legislature can designate what subjects can be taught, and eight or ten of those subjects have been designated, and every school must teach those subjects if it secures its proportion of the distributive fund. There is a system of supervision that begins with the State superintendent and his official force that touches every school in the State; there is a system of supervision in the county whereby the county superintendent is supervisor of the county and a system of supervision in each city district.

Mr. REVELL (Cook). I am trying to bring it down to actual operation. I understand there are laws providing for the erection of buildings, that comes down to clay, mortar and brick; I am trying to bring it down to the actual operation on the child himself. Is there any system in the State of Illinois by which there is a standard of education which will carry out to the children in the small districts a system under which people who do not understand educational matters to any large extent shall give to the child in that sparsely populated district, is there any standards of education so far as all these tens of thousands of systems amount to?

Mr. BLAIR. Yes, there is, the standards as to what shall be taught, standards of the plan of the building, standards of the qualifications of teachers, and so forth. I see your point; in Illinois we are not highly centralized. I would not have it as it is in France, where the chief education officer boasts that he can sit in his office and look at the clock and tell what every teacher is teaching in every department in France. I would not have that in Illinois; that is baneful, and I would not advocate that kind of system. Illinois is decentralized, as we say, and the very largest amount of local autonomy is left with the local directors.

Mr. REVELL (Cook). As superintendent of instruction in the State of Illinois I thought you could clear me up on this proposition. I understand there are sparsely settled districts in Ilinois where the education of the children is entirely in the hands of a few trustees selected from that district; that these men have the right to name what the child shall be taught, to select the teachers, and in some instances I have heard—I am not prepared to prove this, but I have heard it from what I consider reliable authority—that the trustees in those districts have submitted their reports, which they tendered to you or to somebody else in connection with taxing and other matters that influences what they shall receive from the State, have submitted their reports to ordinary people for the purpose of being correct in their reports, and in one instance actually submitted their report to a lightning rod salesman in order that they might be a little more sure that their report was correct. Is there any chance of any such operation as that, and whether or not it would not be a good idea for the great commonwealth of Illinois were put more in the position of having a larger degree of standards of education, so that the splendid results that education achieves in places like Evanston and Oak Park shall be brought so that the poorest child in the State of Illinois may have an opportunity at similar education?

Mr. BLAIR. Precisely, and that is what we are coming to. The inequalities of education are not due to lack of law in the main, or lack of State supervision; the inequalities of education in Illinois are due almost wholly to the inequalities of taxation. We have children in the coal mine districts of Illinois, where the children live in the neighborhood of the mine, where you could not raise enough money to give those children adequate school opportunity, and we are coming before you gentlemen, before this program is over, and show you that the only thing needed so that we can give to every boy and girl in this great commonwealth an equal standard of education opportunity is that we have taxes more justly distributed, so that this black boy down in Pope county now—in a few years he will be walking Michigan avenue in Chcago—will have as good an educational opportunity as children in wealthy districts. There are poor mountain whites in the southern counties that have come from Kentucky and Tennessee. They are down there where the land is washed out and where we could not raise much revenue by local taxation. And the one great crying need is that we have a large State fund and larger revenue districts in order that we may be able to build better buildings and procure better teachers. We have 20,000 teachers in Illinois that are not adequately trained for this great work; 12,000 of them have no business in the schools at all from the standpoint of technical scholastic training. What is the reason? We are not offering these men and woman a sufficient inducement to have them prepare in normal schools and colleges to train these boys and girls. There is no other way under the heavens whereby we can give to the children the kind of education you have in your mind than by having an adequate system of revenue, which will be presented to you in a later part of this program.

Mr. HULL (Cook). The difficulty, as I understood, has been that the taxes for school purposes are raised by districts, is that the difficulty?

Mr. BLAIR. That is the main difficulty, Mr. Hull.

Mr. HULL (Cook). Do you advocate a larger distributable State fund?

Mr. BLAIR. I do.

Mr. HULL (Cook). That can always be determined by the legislature at any session, can it not?

Mr. BLAIR. Yes.

Mr. HULL (Cook). That does not come into any Constitutional Convention as a question for its consideration, does it?

Mr. BLAIR. I was saying that in order to get the uniform kind of educational opportunity this gentleman is asking about, that large revenue is one problem.

Mr. HULL (Cook). More revenue?

Mr. BLAIR. More revenue.

Mr. HULL (Cook). It has got to have some rearrangement of the system by which the revenue is collected?

Mr. BLAIR. Surely.

Mr. HULL (Cook). A redistricting of the State?

Mr. BLAIR. Yes, sir.

Mr. HULL (Cook). Is that a legislative proposition, too?

Mr. BLAIR. It may be.

Mr. HULL (Cook). Could not that have been attended to by the legislature, if it had been advocated by anybody in any aggressive way?

Mr. BLAIR. It has been advocated for fourteen years and you have sat on committees and heard it.

Mr. HULL (Cook). You did not prepare any bill in the legislature for any rearrangement of the taxing districts?

Mr. BLAIR. In 1909 when you were a member of this General Assembly we brought forth a recommendation that was printed and furnished to the committee on which you sat that recommended just that particular thing, and we could not get that bill out of any committee.

Mr. HULL (Cook). Has there been any bill since 1909? I mean on this rearranging of the taxing districts for school purposes?

Mr. BLAIR. Yes, through the community high school we have extended the area of taxation and have over 325 schools.

Mr. HULL (Cook). That does not solve the common school problem.

Mr. BLAIR. Yes, it relieves the common school district and gives it all the taxing revenue which was used both for the high and elementary schools and it has saved the elementary schools in those districts.

Mr. HULL (Cook). I do not get your point on the way it operates.

Mr. BLAIR. Take Springfield, Danville, Rockford and Chicago, they are all operating their high schools and elementary schools under one taxing rate for education and buildings. Take Joliet; Joliet has a township high school; it can levy the same rate of taxation to maintain the Joliet high school that the Springfield and Danville boards may levy to maintain both their elementary and high schools; the Joliet elementary school board can levy just as much and just as high rate and get just as much revenue as they did before the high school was taken from under their control, and that doubles their amount of revenue.

Mr. HULL (Cook). It is still a statutory proposition, is it not?

Mr. BLAIR. Yes.

Mr. HULL (Cook). In what way does it hook up with the business of the Constitutional Convention?

Mr. BLAIR. This gentleman asked how to make this system reach out and touch and lift standards all over, and I told him we should have more revenue so we could get better buildings and hire better teachers and have standard courses of study.

Mr. HULL (Cook). I understood you to say that the State distributable fund, the amount, that was a matter which could be determined by the State legislature at every session.

Mr. BLAIR. Yes, sir.

Mr. HULL (Cook). That is not a constitutional proposition.

Mr. BLAIR. Why, no, that is not a constitutional proposition. What we are after is to go before the revenue committee and join with the forces of the State to see that property is reclassified and we have a larger property basis for levying a tax rate upon.

Mr. HULL (Cook). Now, you are getting down to the thing I am interested in, now you are suggesting a method.

Mr. BLAIR. That is what we are going to discuss.

Mr. TRAUTMANN (St. Clair). Did I understand you to say that you approved the recommendation made by the Illinois State Teachers Association?

Mr. BLAIR. I do.

Mr. TRAUTMANN (St. Clair). On page 2 of the paper distributed this morning there is a section which reads, "Resolved, that section 4, article 8, of the present Constitution be omitted from the new." That is the one which provides, "No teacher, State, county, township or district school officer shall be interested in the sale, proceeds or profits of any book, apparatus or furniture used or to be used, in any school in this State with which such officer or teacher may be connected, under such penalties as may be provided by the General Assembly." Do I understand it is the intention and recommendation of the State Teachers Association that that be eliminated so that the teachers and the school officers can be interested in the sale and so forth?

Mr. BLAIR. Not at all. We consider that is statutory. We understand that this Constitutional Convention wants to enact organic law on large principles, and that statutory matters shall not be put in.

Mr. TRAUTMANN (St. Clair). You recommend it be taken out of the Constitution?

Mr. BLAIR. Yes, sir.

Mr. TRAUTMANN (St. Clair). You do not think the teachers and officers should be interested in any way in the articles that are furnished?

Mr. BLAIR. Not at all.

Mr. DUNLAP (Champaign). Did I understand you to say that the extending of the taxes for high school purposes would alleviate the conditions? It does not affect the country school district, does it?

Mr. BLAIR. No.

Mr. DUNLAP (Campaign). It is not advantage to the country school district to have tax superimposed upon them for the purpose of high schools?

Mr. BLAIR. No.

Mr. DUNLAP (Champaign). Don't you think—perhaps this is a personal question and you need not answer it if you do not wish to—don't you think that the superimposing of taxes over lands, take any territory around a city, simply for the purpose of increasing revenue for the high school is an unfair proposition to the people who live in the country to be taken in and taxed for such purposes?

Mr. BLAIR. I never saw a vote on anything, Senator, that does not seem to be unfair to the minority as the vote comes out, and I say to you that this whole tendency would not be sweeping Illinois like a prairie fire today if we had gotten adequate revenue provisions and not clapped on the district legal restrictions that it can only raise so much money to run its schools. The schools would be better off if all schools were under the same board of control. The legislature would give Springfield, Danville, Rock ford and Chicago, and all these other cities the right to levy, on the vote of the people, the same amount of money that Joliet and 300 other communities, then I would say that is a better situation.

Mr. DUNLAP (Champaign). I want to ask one question that has to do with constitutional provision: The Illinois Central Railroad, for example, is exempted from local taxes; they pay revenue into the State treasury. Now, the school districts through which the Illinois Central passes derive no revenue from the property of the railroad that passes through their districts, and oftentimes are limited by the amount of taxation that they can levy from raising enough money to operate their schools; now, other districts nearby through which other railroads pass that pay local taxes, those districts can run their schools on a low rate of local taxes. Would not it be better if the revenue from the railroads all over the State went into a public treasury and the schools supported from the State treasury, and distributed pro-rata according to the school population back to the districts, would not that be a more equitable proposition for the Constitutional Convention to provide?

Mr. BLAIR. Yes; those properties ought to be taxed within those local districts to maintain those schools; as it is now the Illinois Central pays a certain per cent into the State treasury which does not go back directly to the school districts through which it runs.

Mr. DUNLAP (Champaign). Provided the Constitutional Convention did not make such an arrangement and left the tax of railroads as it is now, wouldn't it be equitable and fair if provision were made that an amount equal to the taxes derived from other railroads in other districts was taken from the Illinois Central fund and distributed to the school districts through which those railroads pass?

Mr. BLAIR. That appeals to me as being elementally just and right.

Mr. CORCORAN (Cook). It is claimed that it embarrasses an educator to make a campaign for your office. Have you found it so in your campaigns, that it embarrasses you in any way?

Mr. BLAIR. Again, that is somewhat personal, but I know in the beginning when a committee waited upon me and asked me to become a candidate I had the shrinking that the average person does, but it is like taking a cold bath, I enjoyed it after it is over, and I recommend it to others.

Mr. CORCORAN (Cook). You do not think that is an argument in favor of the appointing of the Superintendent of Public Instruction?

Mr. BLAIR. No, I do not.

Mr. REVELL (Cook). Do you see any objection, Mr. Superintendent, to the State of Illinois taking over all the education properties in the State and administering the schools of the State as a State proposition?

Mr. BLAIR. Well, if you furnish me with a fresh-laid egg and I had the right to either boil, poach or fry it, I might do either one, but here we are dealing with scrambled eggs; take our township fund, it came by Federal grant; we had granted when this State was formed to the State of Illi-

nois one-thirty-sixth of all the territory of Illinois for schools in the townships of this State; they inhere in the townships, they belong there. Out of the sale of that land and what is on hand, we have a State fund of over 20 millions of dollars giving an annual income of one million. It would be difficult to detach that. In the Seminary fund we have two whole townships given to this State from the Federal government, making 44 townships given to the State of Illinois. We had 480,000 acres given in script to the Illinois University, which added together makes 65 townships of land, more area than is involved in any other two counties of Illinois except LaSalle and McLean. There have been given by the Federal government these large land grants; we have a large fund called the permanent school fund which came out of the per cent of the sale of public lands, which amounts to a considerable fund; we have the surplus revenue of all these amounting to over one million dollars that has been borrowed by the State and it pays a per cent into the public schools.

Mr. REVELL (Cook). You do think that this Convention should unscramble the eggs if it were possible to do so?

Mr. BLAIR. Yes.

Mr. GRAY (Adams). You made a statement in the early part of your address, the truth of which I wish to emphasize by asking a question or two: The fact that the school system comes into the home and home life perhaps more than any other office of system of our State, do you not believe that the school master and the school officer is the most subject to criticism of any position which it is possible for any person to hold? Do you think that is true from your experience, that the people are inclined to criticise, if there is any grounds at all?

Mr. BLAIR. I think that is true.

Mr. GRAY (Adams). It is recognized in every community, is it not, that the Board of Education should be behind the school master or teacher in the school, and that is essential to the moral support or welfare of the school, that the teacher should have the moral support of the school board?

Mr. BLAIR. Yes, that is generally true but in some instances it sometimes impedes.

Mr. MOORE (Macon). You expressed your views on the short ballot of Illinois.

Mr. BLAIR. Mine is more or less of an academic point of view, but I believe that so far as I understand the people, the school master comes close to them; I believe the people will demand more officers be elected rather than fewer. That is my feeling.

Mr. HULL (Cook). I notice in one of these recommendations here you provide for the appointment of the county superintendent?

Mr. BLAIR. What one?

Mr. HULL (Cook). Section 5; it reads: "There shall be a county superintendent of schools in each county whose qualifications, powers, duties, compensation and time and manner of election or appointment, and term of office shall be prescribed by law." The change is the insertion of the words "or appointment."

Mr. BLAIR. It has been held that as it stands now the legislature might make him appointive. Certain ones wanted to put that in, to let the legislature act; so far as I am personally concerned I see no need of introducing that phrase, and I think it is unnecessary to put it in.

Mr. HULL (Cook). There is a feeling among educators that he should be appointed?

Mr. BLAIR. Oh, yes, we do not agree wholly any more than this group of men here; there are people who believe the county superintendent should be appointed, and the State superintendent should be appointed. We are simply giving the point of view that has been approved by the State Teachers' Association which represents 16,000 teachers.

Mr. MOORE (Macon). You would like to have all the superintendents of public instruction in all the small counties of Illinois elected?

Mr. BLAIR. If you have a system and your people have gotten familiar with it, I would not change that system for another unless the advantages

of the new were so large as to overweigh any objection that could be urged against the change. That is my answer to that question.

Mr. LINDLY (Bond). A few minutes ago you said that you could remedy this matter by the Constitutional Convention fixing the revenue law so as to permit classification of property, is that right?

Mr. BLAIR. We think that that will aid greatly.

Mr. LINDLY (Bond). Tell us about it, if you please.

Mr. BLAIR. That will be discussed later by men who are much better qualified than I. We understand by reclassification of property, and by providing that incomes and various other sources of wealth within the State may be taxed, we can get a larger basis of taxation for furnishing school revenue.

Mr. LINDLY (Bond). In your pamphlet on page 3 you commence with some resolutions, and further down you say, "Be it resolved, that we endorse and submit to the Constitutional Convention the following propositions on the subject of taxation:

"1. Provisions should be made that the legislature have the power to enact laws classifying property, both real and personal, tangible and intangible, with the further provision, of course, that all property in the same class be equally taxed.

"2. Provisions should be made for graduated inheritance and income taxes, with the heavier burdens on the larger inheritances and on unearned incomes.

"3. Since our natural resources are the gift of nature to the race and are the real source of all wealth, and therefore the natural and original source of public revenue, provisions should be made to collect more revenue for public purposes from water power, mineral deposits, such as oil fields and coal beds; the unearned increment of land values, which, after all, is really earned by the labor and productive power of the whole community and should be taken in taxes to support community institutions; any socially created increase in the value of natural resources; any part of our natural resources held out of use for gain or speculative purposes.

"4. That the mandate be laid upon the legislature to make stringent provisions for enforcing the assessment and taxation laws; for instance, we suggest that:

"Filing false assessment schedules and other forms of tax dodging be considered criminal offenses and subject to severe penalties.

"The principle of eminent domain might be extended to provide that the State give deed, title and possession of any property to any citizen who will pay the present owner say ten or twenty per cent more for it than the owner lists it at on his latest assessment schedule."

Who arranged these resolutions?

Mr. BLAIR. They are the resolutions of the committee of the State Teachers Association, and that portion of it is to constitute a section of our program and men are here prepared to speak on that in detail.

Mr. LINDLY (Bond). Was this prepared by some one who favors single taxes?

Mr. BLAIR. The gentleman will speak to you who prepared those resolutions.

Mr. LINDLY (Bond). Who is the gentleman?

Mr. BLAIR. He will speak on the program.

Mr. LINDLY (Bond). Who is the gentleman who prepared it that I can ask the question of?

Mr. BLAIR. I probably should not say that. He did not prepare all of that, but the committee adopted it and we are all equally responsible for it.

Mr. LINDLY (Bond). So far as preparing the parts of it that advocate single taxation and socialistic ideas, who did that?

CHAIRMAN BRANDON. Perhaps I might say that in the official program as made out the subject that you have in mind is assigned to President Felmley of the Illinois State Normal, and Mr. R. C. Moore of the Illinois Teachers Association, and I think if you direct your questions at them you will get what you want.

Mr. SIX (Pike). With reference to Judge Lindly's question, I think he is shooting at something else; you come here and say you indorse a proposition, and I think Judge Lindly wishes to know whether you carefully analyzed the proposition and carefully considered your endorsement, and I would like to have you answer Judge Lindly's question. I would like first to know how much time the State Teachers Association or its representative committee gave to the consideration and recommendation of its sub-committee?

Mr. BLAIR. I can answer simply for myself; I asked if there was anything that meant the single tax, and I was told there was not; I should never have voted for those resolutions if there had been; if it is there it is easy for questions to bring it out.

Mr. SIX (Pike). Then you do not know whether you endorse this proposition?

Mr. BLAIR. I endorse the resolutions that are there.

Mr. SIX (Pike). If you were told that item 3 of the resolutions at the bottom of page 3 involved the right of taking property by taxation, and endorsed the principle of taking property from the property owner, would your answer be the same?

Mr. BLAIR. We take property from the property owner by taxation right along.

Mr. SIX (Pike). You recognize in here a special qualification in this particular property which justifies your doing something which never was done to any other property in the State of Illinois. You say, "Since our natural resources are the gift of nature to the race and are the real source of all wealth"—nobody has been taxed because something was the gift of nature; talent is a gift of nature, nobody has taxed that; you say, "Since our natural resources are the gift of nature to the race and are the real source of wealth and therefore the natural and original source of all public revenues, provisions should be made to collect more revenue for public purposes." Did you endorse that thing and think it out when you endorsed it?

Mr. BLAIR. I voted on that resolution and I asked the question, and I stated my personal opinion on it; I was answered that the sufficient answer was that we were not in favor of the single tax because we recommend in this system of taxes, we recommend every form of taxation that is legitimate and proper to get sufficient revenue for the schools of Illinois, and we have no other objective than to get revenues for the maintenance of the schools of the State.

Mr. CUTTING (Cook). Have you any plan by which a more unified and more centralized system for the entire state can be made possible and operative?

Mr. BLAIR. I think that there is; it can be done under our present Constitutional organization; it will be legislative.

Mr. CUTTING (Cook). At the present time there is a complete decentralization in many respects, is there not, particularly in the matter of taxes and assessment for taxes in local districts?

Mr. BLAIR. Almost complete.

Mr. CUTTING (Cook). Have you any scheme to recommend to this body by which that can be remedied, by which that local self government which we hear so much about can be obliterated and the general taxes which would obviate that can be substituted for it; do you think such a scheme as that would meet with the approval of the electors of Illinois? Perhaps I have asked two questions.

Mr. BLAIR. They will object to it, but our scheme is this, as discussed: We do not want to relieve the local district entirely of financial obligation; we do not want to take away from the local district all initiative and all responsibility; we think the county should be taxed as a unit to afford a larger fund by which every district in the State will benefit, and I think the State should be taxed to raise a large fund and that the Federal government

should raise millions of dollars that shall reach to all the states in the nation and be merged in the other funds to give us adequate revenue.

Mr. CUTTING (Cook). How would that affect the local district, provided the local school board elected by the people had the full determination of the selection of the individual and especially the head of that school and practically determined its policy?

Mr. BLAIR. Just as soon as you get a large fund you can determine every pulse beat in that district; you can say that this fund of the county, State and nation shall not issue to district 137 in Pope county, unless it maintains its schools open for eight months, unless it teaches such and such studies and unless it has a teacher of such and such qualifications; unless it furnishes the children with certain playground apparatus and does so and so in regard to the health of the children; you can right that thing when we have revenue in our hands to enforce it.

Mr. CUTTER (Cook). That means local control is practically abrogated?

Mr. BLAIR. What is that?

Mr. CUTTING (Cook). The local control of the schools is practically abrogated then, if the State is to make all these things precedent to the receipt of the school tax, except that which is locally levied?

Mr. BLAIR. There would be a smaller and smaller fraction of local initiative.

Mr. CUTTING (Cook). That meets with the approval of the educators of the State at which you are the head?

Mr. BLAIR. I have said I did not approve of that high centralization that would take away from the local district all initiative. What I am in favor of is this definite scheme of getting more money in the district, a county fund, a State fund and a Federal fund, and you can force every district in the State of Illinois to jump through all the hoops if the legislature will provide the legislation, but the men of the legislature are the most susceptible I ever met to the way the people feel; when we tried to raise the qualifications of teachers at the last session so that a teacher could not sit in an examination for a second grade certificate unless she had a high school certificate, we were told that that kind of standard would shut up one thousand of our schools.

Mr. CUTTING (Cook). That was probably true, wasn't it?

Mr. BLAIR. Yes, it was true; we have tried to raise the standard by persuasion, by moral suasion, by legislation, but we have gotten nowhere. If we had a fund we could produce the kind of regulation that the gentleman here has asked for.

Mr. CUTTING (Cook). Wouldn't it increase the efficiency of the schools if there was more centralization and more control by the authorities of the State?

Mr. BLAIR. Yes, sir.

Mr. CUTTING (Cook). Decidedly more.

Mr. BLAIR. Yes.

Mr. STEWART (Edgar). Now, under the rapidly changing conditions of the times that have been taking place in the last few years, knowing that our taxing functions have been taxed to their capacity in many cases, knowing that the taxes are levied one year and collected the next, that we use to carry on our schools in that State, the changes have been so rapid that we have been rather behind at all times; I am school treasurer of a district where there are ten schools; it has been my instructions to the taxing bodies of those districts—they usually come to the school treasurer for their information in regard to the funds that are on hand for the ensuing year and what will be needed for the following year, it has been my instructions for three years, continually and gradually to raise your taxes, raise the amount you will need the following year, but the changes have been so rapid, prices of every commodity have increased so rapidly, prices of labor and all that has made it very hard to keep up with the changing times. Don't you think, Mr. Blair, that the agitation that has already been created

of the low wages of the instructors in this State, the people who are teaching the little ones that are to be our rulers tomorrow, we understand that the prices of those instructors have been too low, there is nobody denying that, but there is going to be a time when there will be a change; water rushes hither and thither, but it gradually seeks its level; don't you think the agitation which has already taken place in this matter will largely in the next tax levying bodies of this country correct this matter, don't you think so, Mr. Blair?

Mr. BLAIR. Perhaps.

Mr. STEWART (Edgar). In our rural districts we are not paying to the limit by any means; our taxes are away below the limit provided by the State and we are wealthy, we are prosperous, we are able to pay these teachers all they are asking and we are willing to do it; I am speaking now about the rural districts; don't you think that this agitation is going to correct this matter in these rural districts?

Mr. BLAIR. It will help a very great deal.

Mr. DUNLAP (Champaign). You say that these local taxes should be supplemented by taxes from the county and the State, and I agree with that, but you say from the Federal government also. Now, if you are in one of the Southern states I think that would be all right, but Illinois pays in three dollars for every dollar she would get back from the Federal government; I don't see how that would help the schools to take three dollars out and get one back. I am afraid that some of the gentlemen might be asked to petition Congress to enact appropriations that would take care of the schools in different states. Perhaps there is no objection to that, but I would hate to ask Illinois citizens to contribute three dollars to get one back.

Mr. BLAIR. I will say on that that I was in Chicago some months ago and in one of the evening schools, and there were 940 colored persons in that school building being given the rudiments of education; they ranged from 16 to 48 years. I went through the rooms and I asked how many were born south of the Ohio river, and every hand except three of the 940 hands were raised. Down there they are failing to educate them, but they are coming to the northern states. I understand your suggestion, senator, we will put in ten dollars where we get back three, but we owe a certain national obligation to all the states of the South, because those people down there come North and we want them to do their part in educating these Southern states.

Mr. LINDLY (Bond). I want to ask this question: Occupying the position you do, you have some influence with the delegates here; I would like to ask you if you have studied this taxation proposition that is recommended thoroughly and that has received your endorsement?

Mr. BLAIR. I have not studied it thoroughly; I heard it read, and so far as I understand it I believe in it; if it means single taxes I do not believe in that proposition.

Mr. LINDLY (Bond). Was it discussed?

Mr. BLAIR. Very thoroughly. I was present only ten minutes, but the gentlemen who do know that from beginning to end are here and will explain those details.

Mr. MILLER (Cook). You explained yourself in favor of the election of county superintendents?

Mr. BLAIR. Yes.

Mr. MILLER (Cook). You were asked whether you also favored the election of superintendents of city schools and you answered that you did not suggest making changes unless the advantages were so clear as to overcome the disadvantages of making the changes?

Mr. BLAIR. Yes.

Mr. MILLER (Cook). Are we to infer it is your belief that the superintendents of city schools really ought to be elected, that that would be better?

Mr. BLAIR. I would say that the difference between the two is very slight. There is no device that has been offered that will make certain that you will get the right man always, or that you will keep him.

Mr. MILLER (Cook). You think there is some slight advantage in electing the city superintendent of schools?

Mr. BLAIR. I am not so sure about that; so far as the county and State superintendents are concerned, I think so; their duties are largely administrative and statistical, very much as any other constitutional officer.

Mr. MILLER (Cook). You would be satisfied with an elective system for the superintendent of schools in cities?

Mr. BLAIR. Yes. I know in one case where a city turned off the best superintendent it ever had, and it came about by a personal affair. That man could have been elected by an overwhelming vote, and the children would have profited by it.

Mr. MILLER (Cook). You would apply to the principals of schools, the elective system?

Mr. BLAIR. I think you can reduce anything to an absurdity by carrying it too far.

Mr. MILLER (Cook). Do you think that would be an absurdity?

Mr. BLAIR. Yes, I rather think you are getting down to that place where they can be selected by the superintendent of schools in the city recommrecommended to the board; the superintendent ought to be competent to pick out the teachers and recommend them to the board.

Mr. FIFER (McLean). I see here in this resolution adopted by the teachers of the State that you propose to classify property of all kinds, real, personal, mixed and so on. Now, what is the object of that, what would be gained by it?

Mr. BLAIR. I will tell you, Governor, I heard the Governor of the State of Illinois——

Mr. FIFER (McLean). I don't care what you heard the Governor say, I want to know how in this resolution you would propose, what gain you propose to make by classifying all this property as is stated in the resolution; would it increase the amount of property in Illinois to classify it?

Mr. BLAIR. When the Federal government wanted to raise funds and send armies across the water it discovered in the commonwealth of Illinois possibilities of taxation that never have been available before, and we thought this Constitutional Convention might see some way if it would study the matter to discover further possibilities of taxation.

Mr. FIFER (McLean). You say somebody suggested this?

Mr. BLAIR. I am saying that thing is the fact, that the Federal government found ways of raising money that the State of Illinois had never exercised.

Mr. FIFER (McLean). We all want to get the most money with the least amount of squeal possible, that is the policy of statesmen all over the country, but would the classifying of property increase the amount of property in Illinois?

Mr. BLAIR. If it is true that intangible property is escaping paying its proper part of taxation, and if there is a classification that will bring it out and make it pay taxes, we will get better results.

Mr. FIFER (McLean). You say intangible property is escaping taxation; suppose you put intangible property in a class by itself, how is it going to enable the assessor to discover the property any more than they discover it for the purpose of classifying?

Mr. BLAIR. I cannot answer that question.

Mr. FIFER (McLean). The question that is troubling my mind is, how you can discover this class of property any better after it is classified than before it is classified?

Mr. BLAIR. I admit, Governor, ignorance on that; I own a little tract of land on which I paid only $113 taxes; I sold it and put the money in the bank, and the next year I paid over $200 taxes on the money; that is my own personal experience.

Mr. FIFER (McLean). You say intangible property is hiding, it escapes taxation?

Mr. BLAIR. That is the assumption I make, I don't know how true it is.

Mr. FIFER (McLean). So you have got to depend then on the man who owns the property to make the discovery in your view of the situation, is that true?

Mr. BLAIR. Yes.

Mr. FIFER (McLean). Then you would make a less rate of taxation on intangible property than you would on other property, is that true?

Mr. BLAIR. I think that is the assumption of the men who put over the propaganda.

Mr. FIFER (McLean). Is it the purpose of the advocators of the classification of intangible property to make taxation at such a rate that the owner of that class of property will have no object in hiding it away?

Mr. BLAIR. That is as I understand it, Governor.

Mr. FIFER (McLean). And you get that from those who are advocating this classification?

Mr. BLAIR. Yes, sir.

Mr. FIFER (McLean). That by making a reduced rate on intangible property the man who owns it, when the tax assessor comes around will discover it to him, isn't that true?

Mr. BLAIR. Yes, sir.

Mr. FIFER (McLean). Well, have you any idea how much tax the intangible property would have to be reduced before he went to his little tin box and put it under his arm in the spring and went out to meet the tax assessor to have it taxed up, at what rates do you think?

Mr. BLAIR. I know nothing about that, you are dealing in a matter, Governor, I am not competent to speak on, and I do not care to take the time; I am interested in hearing your discussion, but I am not able to tell you anything.

Mr. HULL (Cook). I wish to submit that Mr. Blair has stated repeatedly that the taxation provisions of this proposal for the State Teachers Association were not his specialty and that others were here prepared to speak on it.

Mr. FIFER (McLean). I did not so understand Mr. Blair.

Mr. HULL (Cook). I think he has so stated.

Mr. FIFER (McLean). It is generally understood by those who are awake in Illinois that the whole object and purpose of the classification of intangible property is to reduce the rate of taxation so that the man who owns it will make a discovery of it.

Mr. HULL (Cook). I was going to suggest inasmuch as Mr. Blair disclaims any knowledge of the subject of taxation and inasmuch as it has been suggested that other speakers will be ready to answer those questions, we might profit better by listening to those explanations than by listening to Mr. Blair.

Mr. FIFER (McLean). You did not pay much attention to those provisions in the resolution, did you, Mr. Blair?

Mr. BLAIR. No, I disclaim any technical knowledge of the whole matter; I believe in the resolutions as passed and will sit through as they are discussed.

Mr. FIFER (McLean). You paid about as much attention as the members of the committee generally did, didn't you?

Mr. BLAIR. I was there only about ten minutes; I think the committee spent two hours on it.

Mr. FIFER (McLean). So this provision in the resolution was rather glossed over, wasn't it?

Mr. BLAIR. I should say not any more than the other resolutions.

Mr. FIFER (McLean). Did you understand the other provisions in the resolution, you say they all received like attention?

Mr. BLAIR. The other provisions were more familiar to me. You do not have to eat a whole firkin of butter to know whether it is good or not. I profess no special knowledge on this taxation matter.

Mr. FIFER (McLean). Did you vote for this provision in the resolution without knowing very much about its effect or what was to be gained by it?

Mr. BLAIR. I voted for it because I believed in it, and I have not had anything adduced to change my opinion.

Mr. FIFER (McLean). You say that you believed in it because classifying intangible property, putting it in a class by itself and making a rate of taxation so low that the owner of the property would make discovery when the tax assessor came around, is that your position?

Mr. BLAIR. Yes.

Mr. FIFER (McLean). And this is the position of all those who stand with you on this question, isn't it, so far as you know?

Mr. BLAIR. Yes, sir.

Mr. FIFER (McLean). That is the theory of it?

Mr. BLAIR. Yes, sir.

Mr. FIFER (McLean). Now, did you and the gentlemen who stand with you on that proposition ever reach any determination as to how low the taxes would have to be placed on intangible property before the owner would make discovery?

Mr. BLAIR. No, I personally did not investigate that.

Mr. FIFER (McLean). Did you think if it was reduced one-half, that is, in relation to other classes of property, do you think the owner of it would turn it up to the tax assessor then?

Mr. BLAIR. I would say, Governor, this is a field that I am not instructed in; I would be glad to sit at your feet any time and learn.

Mr. FIFER (McLean). You are not an expert on that question?

Mr. BLAIR. No, sir.

Mr. FIFER (McLean). Do you think you are about as much an expert as the rest of the school officers of the State on it?

Mr. BLAIR. Not in that field; you will have a man who can answer every one of your questions and take care of himself fully.

Mr. FIFER (McLean). If it was discussed as much as the other provisions of the resolution, and you are in favor of it and you stated the reasons why you were in favor of it, that by reducing the tax on intangible property the owner would make discovery. There is just one more question and only one; about what rate should that reduction be made, to what amount? We want light on that subject, because there are men in this Convention who want to classify property; they think by some strange reason they would increase its value or amount; now, have you any idea on that question?

Mr. BLAIR. No, I have not, Governor.

Mr. GREEN (Champaign). Mr. Blair, if I understand the purpose of that part of your voluntary address before the questioning began, it was directed largely toward defending the elective procedure for choosing the head of the educational department of the State. You believe that there should be no change made, but that the Superintendent of Public Instruction should be elected?

Mr. BLAIR. Yes, sir.

Mr. GREEN (Champaign). You also made reference to some distinction between the position you occupy, the superintendent of public instruction and some of those who might represent institutions of higher education, such as the university?

Mr. BLAIR. Yes, sir.

Mr. GREEN (Champaign). Many questions have been asked you here with reference to your opinion on the methods of raising revenue to support the public schools. As I understand you, you do not now undertake or desire to have this Convention understand that you have any well defined opinions on the subject of taxes as connected with education.

Mr. BLAIR. No, I would not say that; I have very well defined opinions, however they may be grounded as to legislative procedure. I do not know what this Constitutional Convention can do in enlarging the amount

of revenue, or in limiting it; I profess no special knowledge on this matter of the revenue question before the Convention.

Mr. GREEN (Champaign). In other words, as to how the money may be raised, that you do not undertake to express an opinion about?

Mr. BLAIR. It should be raised in this district by local taxes, in the county by county taxes and in the State by State taxes and in the nation out of the Federal treasury, just as you have received millions and millions of dollars.

Mr. GREEN (Champaign). The scheme or plan you do not want to discuss?

Mr. BLAIR. Not now.

Mr. GREEN (Champaign). Don't you think it would be conceded by everybody that one of the necessasy conditions to a proper functioning of your office would be a proper degree of consideration for the plan of raising its revenues? Is not that necessarily connected with the administration of your office?

Mr. BLAIR. I have given more time to that one question than any other one.

Mr. GREEN (Champaign). Should it not also take into consideration its relation to other necessities of taxation?

Mr. BLAIR. Yes, sir.

Mr. GREEN (Champaign). Should not there be somewhere some responsible head in the executive department of the State through which these funds could be harmonized and reconciled?

Mr. BLAIR. I am seriously in doubt on that question.

Mr. GREEN (Champaign). In other words, you think this particular department of the State government, namely, education, should stand aloof and have no respect for the other elements of taxation?

Mr. BLAIR. No.

Mr. GREEN (Champaign). And not have some symbol of authority where all could be reconciled?

Mr. BLAIR. I think the superintendent of public instruction and the State Teachers Association should have the right to go in before the legislature and put their ideas for an increased appropriation without having any man say, or any group of men say you cannot ask for that amount.

Mr. GREEN (Champaign). Do you think the legislature or executives should also take into consideration in passing upon your request the necessities, for instance, of the State University?

Mr. BLAIR. Surely.

Mr. GREEN (Champaign). All other necessities for taxation in the State?

Mr. BLAIR. That this central person should have that authority?

Mr. GREEN (Champaign). Somebody who knows something about raising the money.

Mr. BLAIR. I should oppose any attempt to say to a board, you cannot go before the legislative committee and present your needs, I should oppose that.

Mr. GREEN (Champaign). Suppose we take the legislative committee; whatever authority is created by the Constitution as controlling these things, relative to the executive department of the State, and that is carrying out the will of the legislature, it should be well arranged and well organized department, should it not, with some centralized head and control?

Mr. BLAIR. Yes, but when that department says to a man in charge of a normal school, who wants a particular individual for a teacher, "We cannot approve of that person," then I think he is exercising a function that he should have no power to exercise

Mr. GREEN (Champaign). Even if he exercised it through an appointive officer who was the executive head of that department?

Mr. BLAIR. I think that would be very unwise to put the power in his hands.

Mr. HULL (Cook). We have a one mill tax for the University of Illinois now?

Mr. BLAIR. Yes, sir.

Mr. HULL (Cook). Isn't it conceivable that if the whole subject of education was made one department under the Governor, that that one mill tax would be equalized in some way so that the common schools could get some benefit out of it; wouldn't it result to the benefit rather than detriment of the public schools if the superintendent of public instruction should be appointed by the Governor?

Mr. BLAIR. The only way we have of judging the future is by the past; in the last session of the General Assembly we asked certain things for the distributive fund and we did not get the approval.

Mr. HULL (Cook). There is a one mill tax for the university, that is already part of the tax levy?

Mr. BLAIR. Yes.

Mr. GREEN (Champaign). I understand as the logical sequence of your proposition, you would impose a budget system by which the tax necessities of the State would be collected together and put to the legislative committee would you?

Mr. BLAIR. I would oppose any group of persons who would say to any large institution head that you cannot go before the legislative committee that represents the people of the State of Illinois and present your needs and see whether these representatives elected by the people believe that you have made good.

Mr. GREEN. Isn't the converse of that proposition the outstanding remarkable pride of Illinois today; it has done the other thing from the thing you suggest namely, it has collected together the wisdom and the opinions of the heads of the respective departments, so far as they could be organized in one unified budget, presented its demands to the legislature through a centralized authority? Isn't that the reason that the legislature has been able to meet them as well as it has during the last few years?

Mr. BLAIR. I am not as thorough an advocate of that as you seem to be.

Mr. GREEN (Champaign). You do not believe in the budget system?

Mr. BLAIR. Not to the extent you seem to.

CHAIRMAN BRANDON. I would remind you that Mr. Blair has been on the floor for almost two hours. If we have gone far enough in putting him on record in regard to this revenue matter, I would suggest that we limit our questions dealing with the proposals before the Convention in order that we may finish with him before we take the noon recess.

Mr. BLAIR. The State Teachers Association has gone over article 8, and we believe that section 1 of that article is sufficiently elastic, is in the nature of an organic pronouncement and we do not ask that any change be made there. We recommend that section 1 of article 8 be incorporated, as it is; these are recommendations; I hope we are reasonable people; we have no other idea than to give you our opinion on the proposals that have come before you. All we want you to know are our opinions upon this matter, and we believe that section 1 should be retained and you will retain it, if you will study the history of that, how it emanated from the mind of Newton Bateman, how it was sent to the Constitutional committee and how the question of what was the meaning of children; it reads: "That the legislature shall provide a thorough and efficient system of free schools whereby all the children of the State may secure a good common school education." Mr. Bateman said all children between six and twenty-one, and that was a mistake, and later on the educational committee took out the limitation of six to twenty-one, and when it got before the Constitutional Convention it had in it all minor children, but the chairman of the education committee suggested that the word minor be taken out; some of the men of the Convention of 1861 were opposed to children's ages, were opposed to the word children itself; they said that the children of Israel lived to be 360; I believe the courts have universally held

it is a very elastic term; the other phraseology that has been questioned is, whereby all the children of the State may secure a good common school education. There is a fear that that is limited, but I have no fears upon it; I believe it means a school in which the things taught shall be common to the whole citizenship of the State, and the State Teachers Association has recommended that that first section be adopted as it is. It is simply a recommendation, and if this Constitutional Convention should see fit to change that section so as to give it a wider scope I am sure the teachers' association would have no reason to complain.

The second section deals with the great gifts from the Federal government. Much of the Seminary fund was practically wasted and some of our college fund, and this section has to do with the inviolable character of these funds that have been given by the Federal government to the school system of Illinois.

The third forbids the use of public funds in aid of private and sectarian institutions and should stand as it is.

Section 4 should be left out, I think, on the ground it is statutory and should not be in organic law, but I do not think there would be any members on the committee that would be concerned one way or the other; if you decide to leave it in.

Section 5 should remain as it is with perhaps the elimination of the phrase "or appointment." So far as I am personally concerned the same logic I applied to the State superintendent applies to the county superintendent, and I think he should remain elective; that has been our habit and custom and to change from that for a system that has no advantage would be to entail some waste without any superior advantage. I hope, gentlemen, sitting here that you have the imagination to look back to those men who sat in this Convention in 1869 and see the millions of children that have passed through this great common school system and that have had the benefit of these great institutions. I hope that in this Constitutional Convention there shall not be anything done that will limit the opportunity of the children of coming generations from enjoying this great common school system, and of getting a good common school education that shall prepare them for the duties of American citizenship. And it is not only children of Americans for whom I speak, because the children from foreign lands who come to us each year, and in one generation you can translate the people that come to us from those foreign lands into Americans in thought and speech, make them good men and women. I thank you.

CHAIRMAN BRANDON. For the purpose of some of the proposals before us, and to save the necessity of recalling Mr. Blair, I want to ask him a few questions, the answers to which may be the possible basis of some of the debates that will take place before the committee. Isn't it true, Mr. Blair, that the school funds of the state are expended generally in 16 years, the educational process being divided eight years in common school, four high school and four in the university?

Mr. BLAIR. Yes, the kindergarden has been a late development, but by the recent enactment education funds may be used for children between four and six, but under the Constitution and the law, Normal schools have grown up and the universities, and in my way of thinking all those are included in common school education.

CHAIRMAN BRANDON. Isn't it true that the school system is based primarily upon the theory that the pupils who enter the first grade will finish the university course?

Mr. BLAIR. The theory is but the situation is not. All we want to do is to make the opportunity; we want to give every boy and girl an opportunity to go from the kindergarden up to the university.

CHAIRMAN BRANDON. In laying out the curriculum of the schools, it is laid out on the theory that each one of the years is for the purpose of preparing the pupil for the succeeding year?

Mr. BLAIR. Yes.

CHAIRMAN BRANDON. Now, let us take one hundred children who enter the first grade of the public schools; will you tell the committee in round figures what becomes of those one hundred children between the first grade of the public schools and the senior class of the university?

Mr. BLAIR. A great many of them die and are buried; there is a great fatality at that time in the first eight years; many prove abnormal and go into private institutions; some are deaf or blind from scarlet fever and go into special institutions. But a very large per cent of them go on through the grades, and within the last ten years the number that go to the high schools and finish has doubled; the enrollment in the elementary schools has increased only four per cent, indicating that as we make the schools better and better the boys and girls come on and stay longer in the system.

I could answer in actual statistics but the statistics that show that only ten per cent who enter the grades go into high school are not correct. We have as high as 92 per cent of the eighth grade class entering into our high schools; there is a large fatality at the end of that first year, that is true. If all the children that enter the primary grades were to be made into a solid phalanx and moved on through the high school to and through the university it would almost bankrupt the State of Illinois; it is a pyramid, and I do not expect that more than a certain percentage shall go on to complete the university. We have twenty-three colleges and universities that take care of a large number of boys and girls, and they help out.

CHAIRMAN BRANDON. The special education for the treatment of those who drop out along the line will cost more money than otherwise, and I want to base that on some statistics: Out of the one hundred who enter into the first grade, forty are gone at the end of the sixth grade, fifty are gone at the end of the eighth, eighty-five are gone at the end of the twelfth, and ninety-seven are gone before the sixteenth is completed; do you agree with those figures?

Mr. BLAIR. No, I cannot agree with those figures.

CHAIRMAN BRANDON. I want a basis that we can compute on; what is wrong with that estimate?

Mr. BLAIR. I will say that I have an exact statement of the condition but I could not give it to you now, only a mere approximation; those averages have changed greatly in the last ten years, and I will furnish for your record, Mr. Chairman and Secretary a statement of the number of children who are in the first grade and go to the sixth, in the sixth and go to the seventh, I have it all tabulated in the office.

CHAIRMAN BRANDON. Generally is my summary near right?

Mr. BLAIR. You are too low in the number of children that advance.

CHAIRMAN BRANDON. Now, has there been arranged in the State of Illinois school system any definite stopping places along the line for those who drop out at which point they may be educated along the line of self support?

Mr. BLAIR. We have a system of vocational education established in Illinois whereby all the boys and girls of the high school age are offered vocational training, and that is the only provision that the State has made other than the instruction that is given to these children in such subjects as manual training, domestic training and the elements of agriculture, which is in almost all the elementary schools.

CHAIRMAN BRANDON. If arrangement were made by which those who finish at the eighth grade and never go further, and those who finish at high school and never go further were to be prepared for self support at those stages, would it cost the State more or less money than it does to treat with them as it does at present?

Mr. BLAIR. I do not believe I can answer the question fully: I have gone out to the business men of Springfield and asked them what preparation we should give, and they said what they wanted was that the pupils should be trained for right thinking and not to undertake any special training for any particular work; I sat on the State Council of Defense with Mr. Insull, and some one had assaulted the high school system, saying that the

high school system did not train; he said, "I am a business man and employ men by the thousands and I find that every boy and girl that is in the high school is better qualified for his work than one who is not," and he gave testimony that confirmed my opinion that to train a boy and girl to adjust themselves to a given task is in the way vocational education. When a boy leaves the seventh grade, if he has been trained to attend, to take orders and to understand he is vocationally prepared up to that limit. If you want to train him to stand at a machine and regulate a wheel—most of the men say give us the boy and he will learn that. But we are training thousands of boys in high school in various agricultural pursuits, and mechanical for twelve months out of the year, and then in the agricultural pursuits the teachers go out and watch the boys on the farm work, and we are organizing domestic science work in the high schools on that particular principle.

CHAIRMAN BRANDON. But it is generally true that the vocational teachers cost a great deal more than the academic teachers?

Mr. BLAIR. Yes, always more.

CHAIRMAN BRANDON. If the school system of this State is to be amended to consider those who drop out along the way and give them specific preparation for life, then the unit of education will have to be the child instead of the class of forty as at present, and it will cost more money?

Mr. BLAIR. Yes, sir.

CHAIRMAN BRANDON. What is the size of the average group of pupils who sit in front of the teachers of the State of Illinois each day?

Mr. BLAIR. Somewhere between 35 and 40.

CHAIRMAN BRANDON. In your judgment how many, for efficient teaching should sit in front of the teachers?

Mr. BLAIR. I think it should not be above 25, especially in those subjects you are talking about.

CHAIRMAN BRANDON. You are the head of the educational system of Illinois; as a business proposition for the State and the investment of money in its new generation that is coming on, should or should not the State invest more money in the development of its new citizenship than it does at this time?

Mr. BLAIR. I think decidedly more.

CHAIRMAN BRANDON. As a business proposition to what extent would you increase the appropriations of the State for education over what there are now, to be returned to the people in more efficient tax payers, better citizens than now?

Mr. BLAIR. We are now paying out fifty million dollars for the education of one million pupils; that is fifty dollars a head, hardly what it costs to keep a horse in a livery stable over the winter, and I think we could double that amount and not go beyond the real needs of our public school system, and I think in ten years we should more than double that amount, and where we train boys and girls to do things, we have got to have benches and tools and all sorts of mechanisms to work with, and technically trained teachers, and that will increase very greatly the cost of education.

CHAIRMAN BRANDON. Isn't it a fact in the last ten years the public high schools have more and more come to the training of the boy and girl in such subjects as stenography, cooking, dressmaking, millinery, bookkeeping, agriculture and other courses, and that is the trend of education, and it would go forward much more rapidly if there was the money with which to do it?

Mr. BLAIR. Yes. I think that every boy and girl should have some training along those lines. When I was young I worked on the farm and I later learned to lay brick, and it has been a great satisfaction to me to know that I could drop this school teaching business and go back into one of these trades with a little review on the subject, and I do believe that every boy and girl should have an opportunity to learn some trade, but it will cost tremendously to do it.

CHAIRMAN BRANDON. Even though it cost tremendously, is it worth the money?

Mr. BLAIR. It certainly is.

CHAIRMAN BRANDON. Isn't it a fact that thousands and thousands of the fathers of the boys and girls of the country are forced to pay for a business college or correspondence school course for their sons and daughters after they graduate from the high school, and buy courses which could be given in the high schools and which would be as cultural as some of the courses which are given in the high schools now?

Mr. BLAIR. We are offering in practically all the high schools a course in stenography, and those pupils who graduate compare most favorably with those who come out of the private business colleges. That subject should be in the high schools and it is there.

CHAIRMAN BRANDON. If there were enough money those courses would be in the high school to a much greater extent than they are at this time?

Mr. BLAIR. Yes.

CHAIRMAN BRANDON. And the thing which has held back the development of the child of the State has been a lack of funds?

Mr. BLAIR. That has been a great limitation.

CHAIRMAN BRANDON. One other question or two and I am through. What is the attitude of the State toward the dependent child, the orphan who has neither father or mother? Does the State school system assume any responsibility to that child other than to hold the door open and have the teacher inside, if the child should care to enter?

Mr. BLAIR. The General Assembly is moving in that direction; they have provided means by which the districts may take charge of defective children of various types, blind children, deaf children, and children whose parents can not buy books.

CHAIRMAN BRANDON. Then in other words a child in this State to have a chance for education either has to have his eyes put out, a leg cut off, throw a brick through a window or have a soldier for his father; if he is merely a normal child, nothing wrong except absolute lack of funds he can shift for himself so far as the school system is concerned?

Mr. BLAIR. That is true, but that needs very careful consideration; we have gone a long way in preparing for the education of these children. You know, going out to supply clothing and homes and food for those children, it opens up a vista that goes beyond my power to imagine the result. It appeals to me, when you speak of the orphans and those who are dependent, and the State should take care of them. Thus far it has been mainly by the church. In your desire to see that the State takes care of all these children, I cannot see the way clear to the end of it because of the tremendous cost that will be involved, but that is an undertaking that I am in favor of and my heart is with you in your desires.

CHAIRMAN BRANDON. Do you know how much money of public funds is being paid out each year to sectarian institutions for the food, clothing, housing and educating of orphan children, a great many of whom are not of the religion which conducts the institution? Do you know how much money is being expended each year in that direction?

Mr. BLAIR. I do not.

CHAIRMAN BRANDON. You know it is true that in some sections of the State where there are double orphans, that the county contracts with some religious organization which has built an institution, to take the orphan and pays a proportion of the cost of that upkeep to the institution, you know that is done?

Mr. BLAIR. Yes; in Cook county.

CHAIRMAN BRANDON. Do you think that service should be done by the religious institutions in the State, or that the State should operate it?

Mr. BLAIR. The vista that opens up, I cannot see—I would say insofar as these religious and philanthropic institutions can take care of that work it will be as well and perhaps better done than it can be done in similar institutions in the State. I have a sort of dread of the institutionalizing affect on the children in State institutions. I should not want to

approve wholly of the State taking over all those at a large expense if these other institutions will continue to do it.

CHAIRMAN BRANDON. Would not it be a great deal better for the children so situated if the State would broaden the widows' pension fund and include with that a pension for double orphans, and allow these children to be individually treated in homes rather than building an institution and grouping them all together and giving them institutional life?

Mr. BLAIR. That is going further than my mind has gone in this matter of public education. My sympathies are in that direction, but I could not think of recommending that to a legislative body at this time.

CHAIRMAN BRANDON. Do you think it is good business for the State of Illinois to allow a child to grow up in ignorance?

Mr. BLAIR. No.

CHAIRMAN BRANDON. Don't you think it is better business to invest the money in the child at a formative period, because in the long run the State will get earnings in citizenship and support that it would not have gotten, besides saving the expenditures for correction resulting from nothing having been done for the child in its youth?

Mr. BLAIR. I agree with that position entirely, the only question is the practical form of it, how much money is would cost and how difficult to administer. If you have thought it through, Mr. Brandon, and can fashion some sort of provision whereby the Constitution may provide that I would be glad to go over it and give you any information or opinion I may have on it.

Mr. PINCUS (Cook). I move we recess until two o'clock p. m.

(Motion prevailed.)

Whereupon, an adjournment was taken by the Committee of the Whole until two o'clock p. m., Wednesday, March 10, 1920.

2:00 o'CLOCK P. M.

The Convention of the Whole reconvened pursuant to adjournment.

Chairman Brandon presiding.

CHAIRMAN BRANDON. The committee will please come to order and Mr. Blair will resume the stand for a moment. Mr. Mills of Decatur has some questions he wishes to ask.

Mr. BLAIR. Mr. Chairman, if I may before the questions are asked, I would like to have read into the record the matter of attendance which you asked for, if you care to have me read it. This is in answer to the question asked about the one hundred children who start in the first grade of the public schools and what becomes of those children where they drop out in the course of the sixteen years of instruction.

Only within the last ten years have we collected the data by which we can show what per cent of the total enrollment are in the first, second or third grades and on through. This is for the year ending June 30, 1919, the total enrollment in the schools was 1,086,626 children; in the kindergarden 4.3 per cent of the entire enrollment; in the first year elementary schools 16.6 per cent of the entire enrollment; in the second grade, 11 per cent; in the third grade, 11.2 per cent; in the fourth grade 10.4 per cent; in the fifth grade 11.2 per cent; in the sixth grade 8.7 per cent; in the seventh grade, 9.7 per cent; in the eighth grade, 6.3 per cent; in the ninth grade, or the first year of high school, 4.6 per cent; in the tenth grade, 2.8 per cent; in the eleventh grade, 1.8 per cent; in the twelfth, 1.4 per cent; in the high school itself there are 10.6 per cent of the entire enrollment in the high school and those figures, I think, will answer Mr. Brandon's question when they go into the record.

Mr. REVELL (Cook). On the basis of the 100 pupils beginning the school in the kindergarden, only one out of the one hundred goes into the high schools?

Mr. BLAIR. No, it is not that.

Mr. REVELL (Cook). That is the percentage you just read.

Mr. BLAIR. In the first year of the high school 4.6 per cent of all the enrollment in the school; the second year, is the year used as the standard of reckoning because in the first year, children will start in September, but they drop out.

Mr. REVELL (Cook). I see that your percentages there are figured on a totally different basis than the 100 of Mr. Brandon's.

CHAIRMAN BRANDON. I think we can get it from that, Mr. Revell.

Mr. MILLS (Macon). What time was your State Convention held at which these papers were prepared?

Mr. BLAIR. During the last days of December; I don't remember the exact dates; Mr. Moore, the secretary can give the dates.

Mr. MILLS (Macon). That was prior to the meeting of this Convention?

Mr. BLAIR. Yes, sir.

Mr. MILLS (Macon). Has your attention been called to proposals 231, 235 and 238 in reference to the teaching of the English language in the public schools?

Mr. BLAIR. I have glanced through them, Mr. Mills, but I would like to have you call my attention to any particular one that you have here.

Mr. MILLS (Macon). Mr. Carey (Cook) introduced this resolution, number 231, which reads as follows: "The General Assembly shall provide a thorough and efficient system of free public schools wherein all the children of the State in common may be educated. In these schools the English language shall be the medium of instruction." Has that been called to your attention?

Mr. BLAIR. Yes, I have read that.

Mr. MILLS (Macon). Proposal number 235 was introduced by me by request and has this clause in it. "The General Assembly shall provide a thorough and efficient system of free schools, in the English language, whereby all children of this State shall receive a good common school education, and shall also establish a thorough and efficient system of high schools, colleges and universities throughout the State." Has that been called to your attention?

Mr. BLAIR. Yes, sir.

Mr. MILLS (Macon). Proposal number 238 introduced by myself reads: "The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of the State may receive a good common school education and that the only language taught in any school in this State, under the high school grade, shall be the English language. That all adult foreigners in this State, unable to speak the English language, shall be taugh to speak said language as an integral part of said school system." Has that proposal been called to your attention?

Mr. BLAIR. Yes, I have read it.

Mr. MILLS (Macon). What is your judgment, out of your experience, as to the feasibility of carrying out the suggestions of these proposals so far as the English language is concerned?

Mr. BLAIR. The last General Assembly, and by the way I want to say it because Mr. Hull (Cook) this morning raised a question about what the General Assembly has done. The last General Assembly gave the public schools of Illinois the largest body of liberal and progressive school legislation that has ever come out of any General Assembly within my knowledge, and I think the greatest body of liberal and progressive legislation that has come out of any session since 1855, and in that number was one requiring the medium of instruction on the common branches should be the English language, which was gone over carefully in the House and in the Senate, I do not think the bill as passed is a strong bill, it is defective, it provided no way whatever for its execution, so far as private schools are concerned. In the elementary schools of public organization and maintenance there has not been a foreign language taught save in a few districts, which I could count on the fingers of one hand, in the last decade; down in southern Illinois in certain districts there were a few, and there were some

in Cook county where that was done, but this question will largely relate to private schools. I believe it is for the legislature; the legislature said that the medium of instruction in the elementary branches in public and private schools shall be in the English language only. Now, when that bill was passed and we came to administer it, I asked the Attorney General to find out whether that prohibited the teaching of German in private schools and also asked if it prohibited the teaching of the catechism in the German language, and the Attorney General ruled that the language of the law was that the elementary branches shall not be taught in any other than the English language, and we must go to the statutes to find out what the elementary branches are. In that enumeration there is no allusion whatever to modern languages, and the Attorney General ruled that this prohibition did not lie against the teaching of a modern language. In the teaching of German or of French or Spanish or Polish, the teacher in teaching that subject might use that language as instruction, and the Attorney General also ruled that the teaching of the catechism was not an elementary branch of instruction, and therefore did not come under it. That introduced simply a difficulty in administration, the law no where says who is to enforce it; the Superintendent of Public Instruction has no power over private schools and the County Superintendent has not.

Mr. MILLS (Macon). What is your advice, occupying the place you do, in reference to the feasibility and the advisability of having that kind of provision?

Mr. BLAIR. I would not be in favor of a provision that prohibited private schools from teaching modern languages, if they want to do it, but I should insist that in teaching every other subject, geography, grammar, arithmetic, the medium of conversation and instruction, should be in the English language, but I would not myself give my approval to a law that would abolish the teaching of a modern language in the private schools.

Mr. MILLS (Macon). You would go to this extent, that these schools should be required to teach the English language so that pupils in those schools could read and write in English?

Mr. BLAIR. Certainly.

Mr. MILLS (Macon). What do you say in reference to this, that all adult foreigners, in this State, unable to speak the English language shall be taught to speak said language as an integral part of said school system?

Mr. BLAIR. I should be favorable to that objective; I do not know how realizable it is; it is a very difficult thing for adults to learn a new language, but insofar as it can be accomplished, I would favor that.

Mr. MILLS (Macon). Do you know anything about the experiment that is being tried in Lincoln with the coal miners? I do not know whether it is Polish or Italian coal miners?

Mr. BLAIR. I have heard of it, yes.

Mr. MILLS (Macon). Have you had any conversation with the superintendent of the schools there?

Mr. BLAIR. No, I have not, but we have classes in evening schools in which we take in all that will come and we give them instruction in the English language; this is done in Chicago and in Springfield.

Mr. MILLS (Macon). Don't you think as a precautionary measure that the State should do that very thing so that all the people of this State shall think in English, talk in English and be English?

Mr. BLAIR. Certainly.

Mr. MILLS (Macon). So that the State itself, the great population of the State will be one in education?

Mr. BLAIR. I quite agree with that, but I can conceive of a man being a loyal American who cannot speak the English language, and a man who could speak it perfectly who was not loyal, but I quite agree with you that all of our laws, literature, all our pronouncements should be in the English language, and I think every one who is to become truly American ought to be trained to read and write the English language, and I think we do as far as it is possible, but that is very difficult with these older persons.

Mr. MILLS (Macon). I realize that, but is it not worth the serious attention of the school officials of the State?

Mr. BLAIR. Yes, I think so. I attended a Mothers' meeting in Springfield where there were women with shawls over their heads who could not speak the English language, could not speak to me at all, and when I sought an introduction, the daughter of one of these women, Louisa, spoke as fine English as any one in the eighth grade, and my hope is with the children.

Mr. MILLS (Macon). Could not the children in these homes be used as the instrument of the school system of the State to carry that into the homes?

Mr. BLAIR. I think so. If that is all the questions I will step down. I thank you. (Applause.)

CHAIRMAN BRANDON. I know I voice the sentiment of the Committee when I thank Mr. Blair for his two hours and more of arduous service here today.

The Committee which drew this program drew it on the assumption that the average speaker would take about fifteen minutes including what he said and the questions that would be asked.

Mr. HULL (Cook). He is more than the average speaker.

CHAIRMAN BRANDON. Mr. Blair has slightly exceeded that time, but not by his fault; I do not think the Committee will feel badly if any of the speakers in the future would restrict themselves to that period of time.

Mr. MOORE (Macon). We are here to get some information as to what the educators of the State of Illinois want, what they purpose to do for the State and how they purpose to organize the schools; I believe incidentally they are going to tell us something about taxation. I would like to suggest that the speakers address themselves first to the needs of the educators and the purposes and the aims of the teachers, and then if they see fit to discuss taxation questions they might go into it.

CHAIRMAN BRANDON. I will say, Admiral, that the Committee which arranged the program divided the speakers into three groups; the first were asked to deal with article 8 of the Constitution and the proposals which had been submitted to this Convention from the standpoint of the State Teachers Association; the second group of speakers have been asked to speak upon the subject of the present conditions and growing needs in the schools, and the third group on the subject of school revenues. We have purposely started with the first section of these speakers and I think it is safe to say however, the others will not take very much time. That is the present arrangement of the program, Mr. Moore.

Mr. MOORE (Macon). I am deeply interested in the needs and the aims of the teachers, and I am in favor of any measure that will promote the interest of the teachers of the public schools. I am not a tax expert, and I would like to hear what the teachers aim to do.

CHAIRMAN BRANDON. I think the next two speakers will confine themselves to the subject as laid down, and I am inclined to think, Mr. Moore, that the introduction of the subject of taxation into Mr. Blair's remarks was drawn out of him by questions rather than as a part of his own address proper.

The next speaker will be Mr. B. C. Moore, County Superintendent of Schools of McLean County.

Mr. MOORE. Mr. Chairman and members of the Convention: It was announced that each speaker was supposed to take fifteen minutes; we will assess that as we do property and divide it in half and then take it at a still lower value, I assure you, unless you fire too many questions at me.

I have been in school work for 33 years as a teacher and student, and I feel as if no day that I ever spent in the university or school will be more profitable than going to school here today. You are making history and we are all interested in it. You are to form the fundamental and basic law no doubt for the next half century, and we, as teachers, are interested; we have come today by invitation in a whole-hearted way to discuss with you the things that interest us in the profession and work for the schools.

Now, as you have been told, my remarks should be confined to the first part of the program, article 8 of the Constitution. This is the article that I have read most often; I have read the whole Constitution more than once, I memorized parts of it, and today several thousand children in my own county—not several thousand because they do not study the Constitution until they get into the upper grades, but all those who should be studying it are studying it in our course of study, and whatever Constitution is adopted the children of this State will be taught the provisions of that Constitution. Of course it is vital. We have thought perhaps more on this first part of our program in the years gone by than we have on the latter part, and many of you as experts know more about that than we do. We do the work and the people furnish the money. Now, to the point. Article 1 of the Constitution provides first, as you see by the Constitution and the little pamphlet as follows:

"The General Assembly shall provide a thorough and efficient system of free schools, whereby all children of this State may receive a good common school education."

As teachers we have read every Constitution provision in other states for a system of schools and we believe we have the most concise statement of any Constitution, and the only thing that we stand for is that this brief article shall not be bungled or shall not be enlarged even by making it specific to the extent that there shall necessarily be a series of Supreme Court decisions to determine the meaning of certain words that might be introduced, and of course you will guard against all that sort of thing. To illustrate just one thing; it has taken Supreme Court decisions to tell us what the Constitutional Convention of 1870 probably thought they knew, and that is the meaning of the words "common school education;" but be that as it may, we have thought that article 1 is excellent, we have thought that all of the new demands of education and of the schools are possible under article 1 of this section; we have watched the system grow and we have watched the legislature provide for schools until today we have things in our common school system that I am sure those of a half century ago could not have thought of, and that is, I believe our only precaution, that this article shall not be made so specific as to limit the powers of the people, as represented in the General Assembly to provide a system of schools ramifying into every proper idea of culture or citizenship that such a system ought to go into. I shall not even speak of the provisions that affect this first article. I think I have been specific with reference to the caution that should be taken.

Section 2 of the Constitution we think ought to remain as it is, and I doubt that there will be any serious objection to that.

Section 3 also. We have read it and will read it carefully and will take the precautions necessary.

Now, someone asked me this morning about section 4, why do we ask that that be taken out; in my opinion it is simply this, that in the article on education is not the place for this section. Do we ask that the provisions of this section be left out of the Constitution and out of the laws? No. Such precaution as should be necessary should be provided for in the basic law, and is provided for in legislation at the present time. I might be more specific on section 4 and say that possibly in the interpretation of some that law is violated in a way, that the spirit of it is not violated. If I read it correctly—I am not an author of a text book—but under that law it would scarcely be possible for a school teacher of Illinois to be an author of a text book, or anything used in the schools, and yet that thing is done! nobody prosecutes anyone for it, and so something of that kind possibly ought to be eliminated, but the teachers are in favor of the provisions of that section in the proper place with punishment of violations of the law by school officers.

Now, I shall speak particularly of section 5: As a County Superintendent of Schools I suppose I have thought on almost all sides of the school question, and I want to emphasize the importance in Illinois of the position of county superintedent of schools. The reading in the Constitution

now differs by two words from what you see in the resolution. When that was pointed out this morning, the other was not. The present Constitution reads, "There may be a county superintedent of schools;" is it not evidence enough that every county in Illinois is provided and has been provided for years with an educational head known as county superintendent? That is evidence that Illinois has found a system which it ought to have and ought to adhere to, and therefore we are in favor of fixing this that there shall be; someone may say, isn't it safe enough if under the provisions "there may be," isn't it safe enough that we have provided every county with an educational head, isn't it safe enough? Let us have it conform to the facts and provide for the future. "There shall be a county superintendent of schools in each county whose qualifications, powers, duties, compensation, and time and manner of election or appointment and term of office shall be prescribed by law." Now, there is but one madatory thing there, and that is, "There shall be a county superintedent of schools." That is, those other things already are and we say "shall be as it is now." If there is a county superintendent, that the legislature shall prescribe his duties, qualifications, powers, compensation and term of office, and I believe that the State Teachers' Association as a whole stand behind that proposition. There is no division on that. I heard the suggestion this morning, and it has been made in my presence with only a few present, what would you think of striking that section out of the Constitution? Absolutely, gentlemen, don't do it. We have there the foundation of the public school system, and with all of the unworthiness and with all of the poor qualifications of some of us county superintendents who have filled the position, it contains the essence of the school system by which the people can secure leadership in their county for their schools.

Mr. HULL (Cook). The duties of the office would be the same in large as well as small counties?

Mr. MOORE. Yes, in general terms.

Mr. HULL (Cook). The work would not be any more arduous?

Mr. MOORE. Simply more of it.

Mr. HULL (Cook). Wouldn't it be possible if you cut out the word "shall" and leave it to the legislature to determine whether there should be or not, might it not be possible to arrange a school system by which several counties might be better served by a superintendent for several counties than a superintendent for each. When you provide that there shall be a superintendent for each county, isn't it possible that you may not be serving the school system so effectively?

Mr. MOORE. I am not sure, Senator, but what it might be possible to unite several of the smaller counties in this State into a larger county, but until that is done I am not in favor of uniting the school systems of those counties. Let me say that any city superintendent that has twenty-five teachers in his system, with those teachers in two or three buildings where he may walk from one to the other in a few minutes is considered to have his hands full. The smallest county of this State, which is one-ninth as large as the county I come from in territory and in number of teachers has about that number of schools, twenty-five, and I think, sirs, offers a job there for a whole man or woman in supervising the schools of that county, and I believe that the county superintendent's office, the legislature has believed in the years past, shows growth in its powers and duties to the people, and gradually those duties have multiplied. I believe it should be a clearing place for educational ideas for the county; the county superintendent is the advisor of patrons, of pupils, of teachers, of tax payers, that is, they may come to him and talk over a proposition as friend to friend.

Mr. HULL (Cook). If we could have consolidation of the counties, could one superintedent for a consolidated county perform the functions of the office as effectively as was done for the separate counties by separate superintendents for each of the counties?

Mr. MOORE. I think he might in some particulars if the people had the right attitude towards it.

Mr. HULL (Cook). So far as the character of the work is concerned, he could be superintendent for several counties as well as for one county, couldn't he?

Mr. MOORE. I will answer by saying that I would not be opposed to the consolidation of small counties for all purposes, but I am opposed to consolidating county school systems only, and while they remain as counties I believe the people have such a pride in their county that they wish to direct the schools of their counties within those limits that the Constitution and the legislature permits them to.

Mr. HULL (Cook). I am trying to get back to this point, so far as the character of the work is concerned, one superintendent could do the work of several of those smaller counties quite as effectively as it could be done by separate superintendents for each of those counties?

Mr. MOORE. If you should unite two or three small counties and give one man or woman the whole job he would simply have to have two or three assistants to perform the work, so I do not think you are getting anywhere with the proposition, that is, by that union.

Mr. HULL (Cook). Have the large counties several assistants?

Mr. MOORE. Yes, this smallest county has none; I think that the legislature should provide every county superintendent with a stenographer or clerk, but there are more that do not have it. In our county we have three besides myself, one on part time. I might say that the duties of county superintendents have been so multiplied by the legislature, and particularly so that I believe I can truthfully say that one-half of my time, and I put in all of it, has been given in the last few years to duties that did not belong to the county twelve years ago, and I believe there are yet other duties. Let me illustrate that briefly and I will pass on. The last General Assembly gave us a new compulsory school attendance law, or rather truant law, so-called, which makes the asistant of the county superintendent the county truant officer. Prior to that time, as you will remember, each and every little or big district appointed its own truant officer, and the county superintendent had no power and no duty unless perchance it was to advise the board to have the children go to school. I could tell you of the operation of that new law in our county; I will simply say this: I can furnish you with statistics, and we do not have a bad county for children staying out of school, that will prove to you that the extra money appropriated by the county board, if education can be measured by days attendance, has more than doubly paid for that work. What I mean is, we have produced days of attendance, to say nothing of the welfare of the child, possibly saving him from some other institution. Only yesterday a director stood in the office, we called him in; we have not prosecuted anybody, but we are going after perhaps two right away; that man is the father of three children; they ignored the school directors and everybody else and kept the children out for croup and let them play in the creek the next day, and this director who has been on the board for some time came in and admitted yesterday that they never compelled those children to go to school, and yet it was their duty before, and we are going to do it through the county superintendent's office. I want to say that the county superintendents are not looking for any bigger job than they have, but they are ready to perform the duties that the legislature may place upon them.

Mr. MILLER (Cook). Isn't it possible that some centralized system of school management may be evolved which will make unnecessary the county superintendent?

Mr. MOORE. Why, yes; I don't know just what you mean, whether you mean by the best evolution; certainly such a system could be evolved, but I think it certainly would be unfortunate.

Mr. MILLER (Cook). It may be evolved, and may be a proper thing. If so, you would tie down the legislature so that they could not do anything like that?

Mr. MOORE. If you will pardon a personal experience: It happened to be my privilege, I will say, to cross the water last summer, and I visited a boy's school in France, and we asked permission to visit a girl's school,

each as you know are separate, and we were told that our request would be taken up; we were told it would take probably three weeks to find out whether we could visit that school, that they had to send the request to a central department, and it would probably lie on the table for days, and finally when this man got around to it, came from perhaps some other part of the state and decided whether to give that permission, it could be given and sent back, and that we should come back and inquire whether we could visit that school. I am very much afraid that the best interests of the school will not be served by any further centralization.

Mr. MILLER (Cook). Was the demand that this word "may" be changed to "shall" unanimous in your association?

Mr. MOORE. Yes, I think I can say that without question.

Mr. MILLER (Cook). It did not come merely from the county superintendents?

Mr. MOORE. It passed the State Teachers Association unanimously and I have heard no one speak about it, but when you pass resolutions there are some people that keep still; that is true in all bodies, but it was passed unanimously as far as I understand. It may be that there is a small demand in the State to do away with the office of the county superintendent, but I am sure that it would be unfortunate for the school system.

Mr. REVELL (Cook). A few minutes ago you used the term director; did you mean director for districts?

Mr. MOORE. Yes, in our law whenever a school district has a population of fewer than a thousand there are three members called directors; with more than a thousand there are seven members and called a board of education, and I refer to the directors; the same law applies to boards of education; the cities have had a truant officer.

Mr. REVELL (Cook). There are a vast number of those small districts in the State?

Mr. MOORE. There are 231 in our county.

Mr. REVELL (Cook). Districts or systems?

Mr. MOORE. Districts.

Mr. REVELL (Cook). Within the districts there is a large number of systems?

Mr. MOORE. It is only a part of a system.

Mr. REVELL (Cook). Where there are separate responsibilities attained to separate groups?

Mr. MOORE. No, sir, there are three directors in each district, and one teacher or more if a district is larger; over the townships there are three school trustees, but those trustees have very limited power.

Mr. REVELL (Cook). I think you will find in each district there is a large number of separate systems employed, and I wanted to ask you, however, bringing it down to the director of the district you mention, whatever obligations or responsibilities rest upon such a director which are a part, which are inherent in themselves and apart from control by the State or by the county superintendent of schools?

Mr. MOORE. What other than school attendance?

Mr. REVELL (Cook). What can they do of their own initiative?

Mr. MOORE. Briefly, they employ the teacher; the teacher must have a certificate issued by the county or State superintendent; they determine the length of the school term provided it is seven months, which the State determines, and the State can determine a longer term. They fix the salary of the teacher; they grant holidays if they wish; they determine the text books to be used, and it is in the law they determine the course of study; as a matter of practice, most counties follow the Illinois State course of study which is a course gotten out by the county superintendents' section of the State Teachers' Association for the purpose of grading the pupils that they may not have to hash over again and again the things which they have had before, but may go on and graduate at the age which they should.

Mr. REVELL (Cook). Do they prepare the estimate of financial needs in the district?

Mr. MOORE. Yes, each director determines the amount of education fund and building fund that they will need the following year, and they make their levy the first Monday in August.

Mr. REVELL (Cook). And there are in your county 260 boards of directors?

Mr. MOORE. Yes.

Mr. REVELL (Cook). And probably seven or eight or ten thousand in the State of Illinois, each one making an estimate of the school needs of his particular district?

Mr. MOORE. That is correct. I might say that the movement for consolidation will reduce that, and to show you that the people are going to think about consolidation, allow me to make this statement; it is not true all over the State but in central Illinois; in our county one-third of the children in the grades are taught by one hundred teachers in the City of Bloomington; one-third of the children in the grades are taught by the grade teachers in towns or districts of two teachers or more, one hundred teachers; it varies from that to two or three; one-third of the teachers in the grades—it happens to divide that way—the other third of the pupils in the grades are taught by two hundred twenty-eight country school teachers. In the interest of economy and efficiency and conservation, the hard-headed farmer as he is called, but I will say the conservative and careful farmer is going to begin to think what can be done in the interest of efficiency and economy that pays the same amount of money that would be necessary under the present system.

Mr. REVELL (Cook). Don't you think a vast enterprise of any kind, educational or public, private, public or educational, if conducted on the same plan as the financial needs in the State of Illinois are conducted, that they would become bankrupt in a short space of time?

Mr. MOORE. Well, after all, I think there is nothing that brings better returns than a good teacher with a half dozen pupils, but when we get good results with better teachers with twenty-five pupils, we ought to move to that, so I am not so sure that any good thing that brings returns for the money would bankrupt us.

Mr. REVELL (Cook). But you do believe in a greater measure of consolidation of these different districts?

Mr. MOORE. Yes, I believe in the people getting together in certain places and thinking it over and seeing what is about it in their interests, and they are going to do that as a matter of course, and if there is anything bad they will find it out. There is a multiplicity of school officers and that will be reduced. In our county there are in round numbers 1,000—I think it exceeds that—1,000 school officers; there are school districts that have more members on the school board than they have children in the school. One district is running with two children and three directors, and those things have to be thought about, that is all. If I had the authority the next session, without introducing anything new in the sysem as an emergency, as just a temporary thing for one or two or three years until we could get more teachers trained, I could solve the question of shortage of teachers, and I would do it by closing about twenty per cent of the one room schools in each county and some way getting those children to another school, and I think you can see how that would affect the teachers proposition; it makes my heart ache to see a good teacher employed with a half dozen children; it looks like a waste and it certainly is a waste. However, when you consolidate you must think of the other problems, transportation, and things of that sort.

Now, if you will allow me, I will move on to the next point in this section: "There shall be a county superintendent of schools in each county whose qualifications, powers, duties, compensation, and time and manner of election or appointment, and term of office shall be prescribed by law." The words that are new here are the word "or appointment;" now, gentlemen, this is the resolution of the State Teachers' Association that those words be introduced. We are told that the Supreme Court has decided that the word election is not broad enough to include any other method except

a vote. Let me say personally that I have no feelings at all about the word election. I am certain also that no suggestion has ever been made to the legislature that would improve upon the present method of electing a county superintendent; as you know his place is at the bottom of the ticket just below the coroner. (Laughter.) That may be the proper place for it, probably it is not, and I can point examples to you men, and you know them all yourself where men and women of the opposite political party have occupied the position of county superintendent of schools, and I believe on the whole that the people can be safely trusted nearly always to stop and think on the question if they get that far down the ticket, and here is my point: I am not standing for any immediate change, but you gentlemen will write the basic law for fifty years, I think, and as an individual—there may be amendments coming rapidly after this, I don't know, but I am unwilling to favor a proposition that will tie the hands of the people through the legislature for a period of fifty years, or any period, from doing the thing differently if in their wisdom, and we will try to see to it that they have the wisdom, to change the method. I am not so very much concerned with the idea that a man or woman could not be appointed at the head of schools of a county from another county; we do that with other officers, city superintendents for instance, and that is an argument as brought out this morning in its favor; I do know this, when county superintedents are defeated or choose to close their term of office, that there is no other position of the kind in which they are efficient open in the State; they all go out at once, about one-third of them every four years, and the positions in which they ought to be efficient are all closed.

There is something there to think about. I am not sure at this time we know any better way, but we are not talking about a law to be passed by the General Assembly, but we are talking about the question of whether or not you should write this section so it will be iron-clad and the legislature and the people cannot break through if the light should dawn. I thank you very much, gentlemen, for your patience. (Applause.)

Mr. JOHNSON (Bureau). With regard to the small counties in the State and the question of consolidation which seems to be in the atmosphere; how many schools, consolidated schools do you think would be constructed in the small counties to which you refer?

Mr. MOORE. I should think the same percentage as in large counties, and I do not know how rapidly this germ will act with the people.

Mr. JOHNSON (Bureau). There are small counties where perhaps in the future all of the schools might be consolidated in two or three schools, that would be their right to do that, wouldn't it?

Mr. MOORE. Yes.

Mr. JOHNSON (Bureau). And that is possible, isn't it?

Mr. MOORE. Yes.

Mr. JOHNSON (Bureau). Now, do you think a county superintendent of schools then should be appointed for that sort of a county?

Mr. MOORE. I think that is possible in the sense that it may under the reading of the law; under the reading of the community high school law, the whole county could organize a community high school, but it is impracticable; I think it is also impracticable that any school district will be so large that a wagon or truck cannot make the trip within less than an hour, we will say, run out and get the children, therefore it would limit that school to a few teachers, and there would be in the smallest county in the State, which had one of the first consolidated schools, and I refer to the John Swaynie school in Putnam county—if there were a superintedent that had a half dozen school buildings in a city with five or six teachers in a building, he would be busy; now, we are talking, gentlemen, about the very smallest community; immediately as you leave Putnam county you get into the larger counties, and any city superintendent that had that many teachers would have his hands full and he would still have the compilation of all the statistics of the county, an office with just as many teachers as before, or nearly, and with just as many patrons as before.

Mr. JOHNSON (Bureau). I am confining my question to that county where the schools are consolidated perhaps into two or three schools, that is possible, isn't it?

Mr. MOORE. Yes—I am not so sure about that—a half dozen would be better, fewer than that would be impracticable even in the smallest county.

Mr. JOHNSON (Bureau). Do you think in that county it should be mandatory at all times to maintain and support a county superintendent of schools?

Mr. MOORE. Yes; there is a job for a man at the head of the schools with all the duties he has to perform and will have in time to come, and even with a stenographer to help him, the letters he has to answer, for there is no one else in the county to whom everybody would want to go—the principal of every one of those schools could not be county superintendent.

Mr. JOHNSON (Bureau). I had in mind this, a county so small as that, with the good roads system put on the map and with the county superintendent of schools in the adjacent county, with his assistance, that he might very easily take care of the schools of that small county, and if it is so, would it not be better to leave the Constitution in that regard just as it is now and leave the word "may" in place in making it mandatory to maintain the county superintendent of schools there.

Mr. MOORE. Only for this, that I do not think the way should be opened for the administration of a system for one or two instances that are altogether impracticable.

Mr. JOHNSON (Bureau). Well, in Constitution building we take into consideration possibilities and not improbabilities.

Mr. MOORE. I certainly understand that the basic or fundamental law, the Constitution should have open doors, but I also understand that there can be no law written hereafter that is not in accordance with that law, and in the last few years we have been in and out of court on the meaning of a single word, and therefore I would fix the limits in the Constitution that ought to be fixed there to make things safe.

Mr. JOHNSON (Bureau). Since 1870 every county in the State has maintained or supported the superintendent of schools, isn't that true?

Mr. MOORE. Yes; the salaries vary widely.

Mr. JOHNSON (Bureau). There has been no attempt to check it of that discretionary power vested in section 40?

Mr. MOORE. No, sir.

Mr. JOHNSON (Bureau). Why should we fear for the future?

Mr. MOORE. I have no fear of the future. In 1870 we did not know that there ought to be; now we know there ought to be and we are in favor of saying it to show we have grown that far; I think our fundamental law should commit itself to that system.

Mr. BARR (Will). I understood you to say that your association felt that the Constitution should provide that there should be a county superintendent of schools, and not leave it open to the legislature?

Mr. MOORE. Yes, sir.

Mr. BARR (Will). And it felt, however, that the method of selecting or electing the county superintendent of schools should be left to the legislature, that that should be left open for the legislature?

Mr. MOORE. Yes, absolutely.

Mr. BARR (Will). Why did you entrust the legislature with the power of determining whether they should be elected or selected, and not whether or not they should have a county superintendent or some other method of directing the schools.

Mr. MOORE. Because as I said I think it is perfectly plain we ought to have a head of the schools of the county that is related to the system as a whole, and all such heads related alike in general law. These other things are secondary to that, and things which may be changed from time to time; it may be found wise to have the county superintendent given a longer term; it has been found wise to change his salary so he can live; we have found it necessary to change his qualifications and duties, as I illustrated

with the question of truancy that has been put into his hands and those other things, these things which change from year to year and even from day to day; still the fact of the county superintendent is not a thing that ought to change from day to day.

Mr. BARR (Will). Is that the reason why you want to leave out section 4?

Mr. MOORE. I thought I made that plain, we thought that article 8 was not the place—I don't know how to describe it—there certainly is a place, but if there is no other place in the Constitution for it and it has to be left in here, has to be left in this basic article on education, why leave it here.

Mr. BARR (Will). Do you think the policy of the public might change in that respect as to the desirability of section 4?

Mr. MOORE. Why, I do not think the public policy will change at all, sir, or the public attitude on that.

Mr. BARR (Will). Then why take it out?

Mr. MOORE. Put it in its right place, wherever that is; if the lawyers of this Convention agree that is the place for it, leave it in. I agree with the resolution.

Mr. BARR (Will). I am not able to arrive at the conclusion as to the two matters that you have discussed, suggesting that the legislature as to one thing should in the case of an evolution of method of selection or election of county superintendents, the legislature should have the power to change or enact legislation according to what seemed the best and not as to the question of whether we should have a county superintendent or board of education or some other thing that might be devolved in the years to come, you would not permit the legislature to legislate on that question; in other words you want to fix this permanently in the Constitution?

Mr. MOORE. Yes, the fact.

Mr. BARR (Will). What is your reason for thinking so?

Mr. MOORE. Because I believe that the existence of a State superintendent of public instruction or equivalent officer and the county superintendent in each county is an essential to a good system of schools.

Mr. BARR (Will). Do you think the method of electing by the people at this time is essential, or do you prefer the appointment at this time?

Mr. MOORE. I said I did not at this time want to be understood as recommending the change; I am in favor of the words "or appointment" being put into the Constitution so the legislature may change the method of appointment, but not change the fact.

Mr. BARR (Will). Is it your view now that the county superintendent should be elected or appointed at this time?

Mr. MOORE. I should say not at this time.

Mr. BARR (Will). Do you think the Constitution ought to provide that the State superintendent of public instruction should be elected or selected?

Mr. MOORE. I agree on that question absolutely with the expression of the State superintendent this morning, and that is, if I understood it, that he shall be elected while the other officers of equal importance in State government are elected.

Mr. BARR (Will). Don't you think conditions might arise in the future where it might seem better to appoint the State superintendent of schools and county superintendent of schools?

Mr. MOORE. Not for the same reasons at all, because there is but one, and the head of the State in the department of education ought to be secured in the same way that the officers of the State of like kind and similar positions, ought to be elected.

Mr. BARR (Will). Isn't it a fact that the county superintendent of schools is a little closer to the people of his community than the State superintendent, and if the State superintendent should be elected, isn't it more reasonable to suppose that the county superintendent should be elected, because they are in closer touch with the people of their community, are they not?

Mr. MOORE. I am not opposed to the election of the county superintendent, but I am opposed to binding the Constitution.

Mr. BARR (Will). What do you think about binding the Constitution in the case of the selection of the State superintendent?

Mr. MOORE. Put him along with the other officers; there is no parallel to the two questions, because the county superintendents are in a class by themselves.

Mr. BARR (Will). Then why do you say that the county superintendent might be selected, but the State superintendent should never be appointed?

Mr. MOORE. I did not say that the State superintendent should never be appointed. I think he should be elected if the other officers are. We school men have been fighting for a recognition of education as a department of the national government. We are not asking that a national superintendent of public instruction be elected, but we are asking that there be an officer in the cabinet, and that education is not simply a little bureau within the Department of the Interior, and that same provision, that same idea holds good in the State.

Mr. BARR (Will). Would your plan be that the national superintendent should be elected or appointed?

Mr. MOORE. I think he should be chosen in the same way as the other officers of similar position are chosen.

Mr. BARR (Will). Your reason for wanting the State superintendent elected rather than appointed is because the other State officers are elected, and if the other State officers are not elected then it is your idea that the State superintendent should not be?

Mr. MOORE. I want it at the head of something and not second to something, where we know that he can give us instruction and advice that we know is authority.

Mr. BARR (Will). Now, do you want the head of the school system of the county at the head of the county school system?

Mr. MOORE. Yes, sir.

Mr. BARR (Will). What will be your suggestion of the method of appointment of the county superintendent?

Mr. MOORE. I think that question is probably out of order because that is a question of legislation.

Mr. BARR (Will). If you rule it out of order of course I won't ask you to answer it.

Mr. MOORE. I won't rule it out of order, I am ready to discuss that when the bill is up.

Mr. BARR (Will). Of course the fact that some one comes and says to this Convention that this or that should be written in is not entirely convincing unless there is some good reason why the change should be made; first, as to excluding the word "may" and including the word "shall," and secondly, changing the words elected or appointed.

Mr. MOORE. I realize that.

Mr. BARR (Will). The purpose of my question is simply to find out your opinion first, and secondly, the reasons for your opinion that the words "or appointment" should be included in this paragraph and "may" stricken out and the word "shall" inserted.

Mr. MOORE. I thought I answered that. We have found our way to a school system which includes a State department of education headed by a superintendent of public instruction and a county superintendent of schools in each county. We have found our way clearly to that. There may be an open question—there is in the minds of some, but there is not in my own mind—that at some other time they may find a way of appointing a county superintendent instead of electing him; if we write it the other way it will be bound up; I really do not care to push that point very hard, there are many who believe in the other way.

Mr. BARR (Will). In the fifty years of the operation of this Constitution which provided for the election of county superintendents, it has worked satisfactorily?

Mr. MOORE. I think so.

Mr. BARR (Will). It would be pretty hard to say that any system is the best that might be devised?

Mr. MOORE. Yes, sir.

Mr. BARR (Will). There might be a better system than that one for county superintendents?

Mr. MOORE. If I might answer in a kind of Yankee fashion—even if the word is put in the Constitution it still pays to go on with the old way; no harm would come.

Mr. BARR (Will). The same thing would hold true as changing the "may" to "shall?"

Mr. MOORE. Yes.

Mr. BARR (Will). We might go on until a better method was discovered?

Mr. MOORE. Yes, sir.

Mr. DOVE (Shelby). There is an organization of the county superintendents of the State, is there not, which is a branch of the Illinois State Teachers' Association?

Mr. MOORE. Yes, sir.

Mr. DOVE (Shelby). Isn't it true that a practically unanimous vote or at least eighty per cent of the membership of that organization were in favor of making the county superintendent elective and not appointive?

Mr. MOORE. That is true, sir, that such a resolution passed the county superintendent's section of the State Teachers' Association. This is the resolution of the State Teachers' Association.

Mr. DOVE (Shelby). But not the resolution of the county superintendents themselves?

Mr. MOORE. No sir.

Mr. HAMILL (Cook). Your unit of administration is by the county?

Mr. MOORE. Yes, sir.

Mr. HAMILL (Cook). Counties vary from two and a half million to seventy-five hundred?

Mr. MOORE. Yes, sir.

Mr. HAMILL (Cook). And by making it mandatory in the Constitution there has to be a county superintendent which would entail the necessity of maintaining the county as a unit of adminstration?

Mr. MOORE. Yes, secondary to the State. I thank you. (Applause.)

CHAIRMAN BRANDON. The committee is thankful to Mr. Moore for his good service, and with the distinct understanding that what I say shall be no reflection on or criticism of Mr. Moore, I would simply call attention to the fact he was on the floor exactly one hour. It is not his fault in the least; I don't know how much time there is, but it is up to you gentlemen of the committee.

Mr. GRAY (Adams). In view of the fact that there are so many speakers present, I feel that we would be better instructed if we would hear from those who are to speak to us this afternoon rather than take up their time with the questioning.

CHAIRMAN BRANDON. There is a little bit of repetition in the questioning.

Mr. WALL (Pulaski). I think we will save time by putting our questions after the speakers are through.

CHAIRMAN BRANDON. I think so, too, Judge. I take pleasure in introducing to the Committee Mr. August Maue, County Superintendent of Will county.

Mr. MAUE. Gentlemen of the Convention. I have come before you to speak for the County Superintendents' Section of the Illinois State Teachers' Association. This section consists of 102 county superintendents of the State of Illinois. The county superintendents are in accord with the program of the State Teachers' Association with one exception, and I am here to speak principally on that exception. I want to explain how it happened we are making this objection. The State Teachers' Association is governed by a delegate body and the county superintendents are represented in that delegate body. The county superintendents are a group of persons who are very modest, and when these resolutions were up for consideration there

was very little discussion, and before we realized it the vote had been cast and the resolution was adopted by a vote of 54 for it and 49 against it. On the afternoon of the same day resolutions were discussed in the County Superintendents Section, where the State Superintendent presided, and two papers were read favoring the words "or appointment" and that is where we make our exception. We want those words left out of section 5 of article 8. After a thorough discussion it was passed by a vote of 80 to 8, and since that time five others have expressed themselves against the resolution., so that as it stands now there are 85 of the 102 county superintendents who are opposed to the words "or appointment." The first speaker of the afternoon gave you the reasons for this perhaps as well as I can, but for the sake of repetition and impression on your mind I will run over it again.

There is no office in the county that is as important as county superintendent of schools. It was not so always. In the old times when nominations were being made up for public offices the county superintendent was nominated after the coroner, and the county superintendent was the last man and the least considered; we have changed that some since the new primary, and in my county we have made a very radical change. In the past election I had no opposition, but the other fellows going out on the campaign could not go along unless I went along, and therefore the county superintendent in that instance, at least, was the most important office. You can do nothing without the cooperation of the people. When I want to put something over, and I feel that I have the support of the people, that the people are backing me, there is at once a bond of sympathy that secures that cooperation, and I get the things done. To appoint the county superintendent demeans the office and puts him back where he was in the old Convention days. I would not have any serious objection to appointment if you appoint all the other offices, but if you are going to elect the sheriff and the coroner, why not elect the county superintendent? It is an unfair distinction, and the school master has influence little enough in any community, and unless he can have some prestige there, through election he has a very difficult task before him, and for that reason I think he should be elected.

My third objection is this, and since you are uninitiated in these matters, I must explain it to you; it opens the way for the most stupendous political machine that the State of Illinois has ever seen; 102 county superintendents who are men of some influence, because they are traveling every day and meeting the people in that close intimacy that comes through the home, appointed from the headquarters at the capital, it would mean the biggest political machine that the State has ever seen. They have told you that they are providing for future generations; God forbid that I should ask that you should do anything that would hinder the present generation from developing as they should. Politicians are not slow to see the advantage in this appointment, and my experience has been they would not be slow to take it up. "May be elected or appointed"—it does not say when the next generation comes, it says now, and to me that is the greatest reason.

Thus far I have spoken for the county superintendents association. I have one other thought and I am done.

As a teacher with an experience of one-third of a century I want to say this, the forces for good and evil we have with us always; the forces of evil are always organized under good leadership with a loyalty that is remarkable; the forces for good center around the homes, the school and the church; the home in modern life has lost its influence; the church has neglected its opportunity and the burden has fallen largely on the school. It will continue to be so. The schools ought to be three times better than they are. We have in this country one out of every five illiterate; that means that the schools must be better; that means they must cost three times as much, and you must make provision to get the money to make them better. Legislators have acted as good angels, lo, these many years. I see some of you smile because you feel your good work has been recognized. You have acted as good angels, I say, for the one best beloved among us, the poor taxpayer. We are asking you to continue to act as good angels and as legislators and as members of the Constitutional Convention we want you to

continue to act as good angels for the best interests of our great State of Illinois. I thank you. (Applause.)

CHAIRMAN BRANDON. I asked the State Superintendent this morning a question about the 100 children that entered the first grade. I wish Mr. Maue would give us his estimate. We understand it is not based on rigid statistics but his estimate as to how many of those children are in the sixth, eighth, twelfth, and sixteenth years of the course.

Mr. MAUE. I am taking this from government reports, and I feel that I can rely on this; the average school age for the United States is a little less than the sixth grade; 5.96 per cent, that is the average for the United States. Out of every 100 who enter the primary grade, 30 drop out at the end of the sixth grade, 30 drop out at the end of the eighth grade, 30 drop out at the end of high school and two of the remaining ten finish college. I thank you.

CHAIRMAN BRANDON. I wish now to introduce to the committee Mr. Edward A. Ellis, county sperintendent of the best county in the State of Illinois.

Mr. ELLIS. You won't need the fifteen minute bell on me, gentlemen; I just want to say a word in addition to what has been said relative to the words "or appointment." Personally, as a county superintendent who has been serving in our modest county for the last ten years, I believe that the duties of the office of county superintedent are such that it is very desirable indeed that he be free from all influence in his interpretation and application of the law in his county, and it is only because I believe .that I have no personal feeling as to my own welfare, because I believe the people will retire me reasonably soon anyhow, that is the experience of every county superintendent—this does not need to be a personal matter, but whoever succeeds me in my county should be free to interpret and apply the law as enacted by the legislature in performing the duties of his office.

I notice there was considerable interest among the members when the words consolidation of schools were brought out and the election of school officers, and the plan disapproved. I believe we are in a way to reduce school officers, to reduce school expense and to secure much more efficiently organized and conducted schools by simply applying the laws which we now have; if you add nothing whatever that will change what we have to work with, I believe that Illinois is right now on a movement for the continuation of improvements which will well take care of the State of Illinois' schools, a school system of which we may be justly proud.

I believe that because of the nature of his duties that the county superintendent should be free from the influence of any men or group of men, and whenever his official acts, his interpretation of the law and his application of it are such that the people are not satisfied with the way he is conducting the office, they have a very acceptable way of showing their disapproval, and he may move on to some other line of activity, and I think that is just the way it should be, and I believe his association with the work and with his duties make it necessary that he have this freedom of action, and therefore I trust that you will make, when you come to write in the words there, to add finally this suggestion and the recommendation of the State Teachers' Association, which as was pointed out by Superintendent Maue of Joliet probably represents at least not as full consideration as should have been given to those very small and apparently insignificant words, but those words which would open up a latent controversy which will be continuous from the time those words are written in until the Constitution is changed, or until the other plan is adopted, and I believe the appointive plan will not furnish you as good or better material than you would secure under the present arrangement.

Mr. REVELL (Cook). Just how far in your county can you arbitrarily direct the directors of the districts in the control of their schools?

Mr. ELLIS. I would say, Mr. Revell, that I do not arbitrarily direct, but we are able to work together some way or another so we are getting along. For instance, we have a county course of study which is the application of the State course of study, and they use that except in the large

cities. When it comes to a matter of the application of the sanitation law in some form or another, we are able to cooperate and get the desired results. When it comes to the consolidation movement, of which we have had several, and we are having them continuously now and I look forward to two or three years of that type of work, which is taking the most of the county superintendent's time, we are able some way or another to get cooperation which results in a vote from anywhere from five to one to twenty to one when the people express themselves on that movement.

Mr. REVELL (Cook). It is a sort of team work agreement?

Mr. ELLIS. That seems to be the most workable way we have found.

Mr. MICHAELSON (Cook). The State superintendent seems to have well defined ideas on the question of keeping that job an elective one; I want to ask if the county superintendents have discussed the short ballot idea and have expressed themselves upon that question, generally?

Mr. ELLIS. I have not heard county superintendents suggest that; I feel different than some, I don't care how the rest of the county officers are elected, it makes no difference whether they are elected one way or another, and I have no feeling of what will result from the comparison but if there is a general movement toward a short ballot I see no reason of making an exception to that for the county superintendent's office, surely. I thank you.

CHAIRMAN BRANDON. The first section of this program will close with the address of Mr. C. P. Briggs, principal and assistant superintendent of the Rockford schools.

Mr. BRIGGS. I shall not take time to come down in front; it seems to me the most important part of our program this afternoon is yet to come, and I do not want to take the time in discussing article 8 of the Constitution. I believe we are agreed on that pretty generally after all of this discussion this afternoon; I think the Constitutional Convention will be able to work out something that will be fairly satisfactory to the school men, but I want you to hear the needs of the school and how to take care of the needs through revenue, and it seems to me the revenue situation is the thing we ought to hear next. I would like to hear that discussed, and I will yield my place to the next speaker. (Applause.)

CHAIRMAN BRANDON. The intention of the committee which framed this program was that we should have a statement of the condition in the schools before we had the solution along the lines of revenue. The next speaker on the program is the superintendent of schools of the City of Chicago, Mr. Peter A. Mortenson.

Mr. MORTENSON. Mr. Chairman, and members of the Constitutional Convention: I would like to say at the very outset that so far as I am personally concerned that I am sure, and this relates to those who are associated with me, we have not the slightest desire to come down here to insist upon anything, or to tell you just how we feel you should do your work. We are very glad, however, not only as teachers, but equally so as citizens to make suggestions. We have tried to do that through the Teachers Association. Some things may strike you as a little bit insistent. I want to assure you they were not in my judgment so intended. The teachers believe it is their duty because of their intimate knowledge of school room conditions and the needs of children to canvass the situation and to give you the benefit of any conclusions which they may reach, or any advice which they feel they may be helpful in reaching your conclusions. I just made that remark so you will understand the spirit in which we are trying to convey it to you.

In Chicago we are trying to take care of more than one-third of the children of your great State. It is an immense problem. We would like you all to feel that we in Chicago are a part of the great State of Illinois. We are just as vitally interested in the great work that is being carried forward as any other section of the State. Whatever will make progress for us will help the other sections and whatever will help the other sections will help us.

We have not had to face the problem of consolidating schools to any great extent. We have no schools in which there are two, four or six or eight pupils in attendance, but where the average attendance is forty-five pupils per teacher. That has been brought about like other bad conditions

through revenue, but that particular subject I shall not discuss. I shall outline a few things that appeal to me as urgent needs for the schools and with particular application in Chicago.

For more than twenty years the cost of maintaining schools has increased much more rapidly than the assessed valuation. We have plotted curves that have shown that increase to be almost uniform through a period of years. In the last ten years the cost of maintaining high schools alone has increased 240 per cent. This is due, of course partly to the increased attendance which has much more than doubled in the fifteen years, partly also to the added facilities which the community has demanded from time to time. The public is ever ready to demand new features; features which are part of the educational problem, features we are glad indeed to provide for the schools of the community; thus has been added manual training, domestic science, music, art and physical education.

I attended yesterday the 25th anniversary of the opening of the Medill School. When that school was opened in March of 1895 it was the most splendid high school building in the west. It provided the first manual training room for the city of Chicago. The boys who took manual training took it after school hours, in classes beginning at two-thirty and ending at four; the boys who took it received no credit for the work they accomplished. They also had the first real gymnasium in Chicago, and that was but twenty-five years ago. When I tell you it had a dirt floor, that it was a little room with almost no equipment it will give you some conception of the steps through which we have gone during that period.

We have added a normal school for the training of our teachers, special classes for the deaf in which we try to remove as far as possible the worst effects of that handicap, schools for the blind and for sub-normal children; we have provided transportation and instruction for crippled children, and just to point out what that means, let me suggest that the actual cost of the transportation of the children amounts to $1.30 per day. All these things are taken from the same fund that was originally provided for our academic instruction.

Corrective classes have been added, corrective classes in order that those who were somewhat of a departure in problems of conduct might progress and go through life better prepared. Technical classes in high schools add enormous costs for equipment and instruction; I could take you in one class room in which the cost of installing the equipment and machines amounted in normal times to $60,000; I hesitate to tell you what the equipment would cost today. The overhead, the salaries, the amounts involved in equipment and material used reach astounding sums.

We have been called upon to provide vocational guidance for those who were compelled to leave the school early and go to work, to see that when a child is compelled to leave school he may be certified to the employer as legally qualified to go to work. When he is through with his employment in that place to see that he either goes back to school or is certified to some other place. All these things involve an expenditure of money, and yet they are splendid things.

At the very last session of the legislature there was provided the continuation school for the advancement of boys and girls through that medium, so that the 50,000 boys and girls who were not permitted or priveleged to go on to high school, college and university, boys and girls who were compelled to leave school for any reason, may not be deprived of the opportunity for two half days schooling a week in order that they might grow educationally, morally and spiritually. In the City of Chicago the cost of teacher training is borne locally; in other sections by the State. Let me say in passing that it is not my intention to in any way disparage any other section of the State, for if I have a warm spot for any institution, it is the little cross-roads school house. I spent my early days in such an institution, and I remember the cold days where we huddled up by the red-hot stove and with the cold to our backs, just as they are doing today in thousands and thousands of school houses, and my sympathies are certainly with

the little country school house. In Chicago the cost of instructing 42,000 high school pupils is made from the regular tax levy. In other sections of our State a special high school tax may be levied. That was referred to this morning; that might be done in Chicago under certain restrictions, but I believe it is better in every section of the State to bind the school facilities of a certain section under one general management.

In Chicago the rate even then is limited to $1.20, while other districts throughout the State can levy $1.33⅓ per $100 assessed valuation, and with referendum with affirmative vote can levy as high as two dollars; Chicago cannot obtain more than $1.20 per hundred dollars assessed valuation for, whatever rate the board may ask, under the Juul Law the rate will be cut to $1.20. The income of the Board of Education is and has been definitely fixed at a point far below the educational requirements, making it necessary to crowd up the membership per teacher and pay salaries at a very low point to the great detriment of the boys and girls of our city. Two courses are open to the Board of Education; first, to limit the expenditures according to the annual income, curtailing opportunity for growth in proportion to the growing needs and increasing school population; second, to provide facilities necessary for the proper education for the children, even if the cost of doing so exceeds the income which has been arbitrarily fixed. You cannot assume that the cost of education is governed by fixed laws, and you must recognize that teachers cannot be expected to make disproportionate sacrifices for the public good. Good teachers must be retained at all hazards, for they cannot be made over night. The Chicago Board of Education charges will result in an accumulated deficit estimated to reach 15 million dollars by March, 1922. I would like to give you briefly in round numbers the deficit that they have accumulated; in 1916, there was a deficit of $245,000; in 1917 a deficit was added of $423,000, in 1918, due to a new salary schedule which is very inadequate there was an additional deficit of $2,361,000 and last year because of the rapid growth of the city, and the necessity of providing bonus of $100 which was such a pitiful sum to each teacher in view of the added cost of living, there was an additional deficit of almost $4,789,000 created; this deficit must continue to grow and the estimated deficit for 1920 is somewhere near three million dollars; the following year will be added to that about four and one-half million dollars, because the city is growing, the assessments are made quadrennially and do not increase materially.

During the year the high school enrollment increased by nearly seven thousand pupils necessitating the employment of 195 additional high school teachers. During the same period the elementary attendance gained nearly 13,000 making it necessary to employ more than 200 additional teachers in that department; this yearly gain approximates the total school population of any other city in Illinois. That is, for the past twenty years the annual gain has approximated the total school population of the second largest city in Illinois. I am giving this little comparison because it means a little more to you than the mere statement of figures. It will be remembered that very little building was done during the war period; people simply crowded into attics, they added a room, they fitted up a basement, they fitted up abandoned apartment buildings and that added to the tendency to crowd up every school to the greatest possible maximum, and yet because of no additional building, or scarcely any additional building, no new revenue was produced, and that additional burden had to be added to the condition as it existed the previous year.

The cost of living, of course, for teachers increased just as it did in other lines of work, and partially to meet this a bonus was paid in 1919 approximately one million dollars, a little over one hundred dollars per teacher on the average; the total expenditure for education in 1909 was $19,616,000; this does not include the cost of building or anything that may be chargeable to the building fund; while the total income of the Chicago school system was $14,826,000, including the income from leaseholds on school fund property, that left a deficit of $4,790,000 for the year; increase in all expenditures for 1920 including new schedules over the bonus of 1919 making $4,135,000;

to put it another way—I am nearly through, I am taking more time with this than I should because it is typical of other cities that are not so large; the question of the gain in revenue for 1920 is a splendid figure, $7,225,000; the deficit for 1919 was $4,790,000, with the normal increase added $5,990,000, leaving available for this year $1,235,000; that would provide about $12 per teacher over the last year's salary, manifestly inadequate. For this reason the Board of Education proceeded and properly, to increase the deficit as I have previously indicated; you will readily see then by March, 1922, the educational borrowing power will have been exhausted and the only way open then will be retrenchment or cutting off 35 per cent of each teacher's salary. Salaries, of course, are the biggest items in such a system as this; the total amount for expenditure for supplies if all saved would be hardly a drop in the bucket. I am not suggesting charity for teachers, I am not even asking justice for them, they do not ask that, but I am looking to the future of the State; it is simply a matter of precaution to us as citizens; can we pass the cost of the recent conflict on to the weakest members of society and those least able to bear it? We cannot Americanize over night; neither can we produce loyal citizens by resolution; it is a long, long process; we once thought we could bring the foreigner to our shores and ask him to hold up his hand and swear allegiance to the government, and it was done; then we talked of assimilation; today we talk of Americanization. We will continue to do the best we can, we will continue to bring to our shores the Italian, bringing his art; the man from Warsaw, bring his music; the Hebrew bringing his dramatic instincts, the Scotchman his thrift and energy; they all enter with us, and we are under the duty of making the best possible citizens out of them, and the greater part will have to be done in the schools with the boys and girls in the hope they may grow up to be stable citizens of the future commonwealth. How can this Convention contribute to the solution of this question on which so much depends? First, retain the present articles of the Constitution relating to education, except as has been previously outlined; second, encourage a larger taxation unit for educational purposes within the State, within the county, and then the largest possible district beyond that; third, consider education always as a function of the State; if municipalities enter into it in any way, municipalities should be considered only as the agent of the State; fourth, make it impossible to discriminate against any school districts, such as Chicago, and Chicago has been discriminated against through such legislation as the Juul law. I am not speaking against the Juul law as such, but speaking of the harm it has worked in the Chicago schools in not permitting them to expand or to do what they should have done for the children of our great city; the children of Chicago are entitled to just as much as those of other communities. Fifth, make it possible to classify property in some way, and we are not particular how; the State Teachers' Association has suggested several ways that to them seem feasible; they may be all wrong, they are simply suggestions; we hope that experts may work out even better suggestions, we are certain they will; they have suggested that some of the things that have been tried with success in other states and are merely submitted for your consideration in the hope they may be suggestive and you may work out something, or remove restrictions so that the legislature may work out something that will work to the betterment of the schools. Sixth, avoid embodying legislative educational provisions that are liable to become detrimental or in any way harmful. (Applause.)

Mr. REVELL (Cook). I note what you said, I think in your fourth or fifth suggestion looking toward a larger unit for the educational system of Illinois whether it might be State or county; this leads me to make this suggestion before I ask my question. Under Governor Lowden and with the assistance of the State legislature there were Departments and bureaus of this State brought together to the number of 120 and made into nine departments of the State of Illinois; had it not been for the vast change that has come about by reason of rising prices this savings, to say nothing about efficiency, to say nothing about the benefit of the people of Illinois in the example such a thing gives them, to say nothing about the effect on em-

ployees, this would have shown a savings almost immediately of several million dollars a year; it is not therefore made comparable on the basis of the amount of money used, because as suggested a moment ago of the large advance in prices which there has come about; that leads me to question. Have you or the other educators gotten together in such a way as to bring to this Convention any systematic plan looking towards a larger consolidation, a larger unit, suggesting if you will the working out of that plan in order that we might have the genuine value which would come with suggestions of that kind; in other words we have heard a good deal and will hear more about the raising of money; there is no doubt in my mind, and I feel sure there is not in the minds of other members of this Convention that with plenty of money the educators might do what ought to be done for the children of this State, but the question is and the problem is where shall the money come from, and unless some plan be given here, some suggestion that is substantial and constructive for the working out of this idea which you refer to in number 4 by which this larger unit may be brought about, by which the vast number of systems and districts of this great State, numbering away up into the tens of thousand shall be reduced into something of a standardized nature, I cannot see that the amounts of money can possibly be raised that are needed and should be had to make the education all that it should be in this great commonwealth of Illinois; have you any plan, even in outline that will suggest a workable system for the larger unit in the State of Illinois?

Mr. MORTENSON. I think, Mr. Revell, there are others on the program who are more competent to answer that than I am; it has been discussed, and I have been in conferences where this was up, and the general sentiment among educators is that the large unit should be encouraged, county units, if possible, if not township units.

Mr. HULL (Cook). Are you talking about taxation or administration when you are talking about a larger unit, I do not understand the argument.

Mr. MORTENSON. We had in mind largely the matter of administration in what I referred to; of course they go together, both as taxation and as administration. In my particular paragraph I had in mind the question of larger taxation unit in order to do away with some of the inequalities that now exist in the neglected districts. Mr. Revell's point is implied, I had in mind the administration and not the taxation unit.

Mr. LATCHFORD (Cook). The last legislature, if I understand you rightly raised the minimum school rate from one-twenty to one-eighty?

Mr. MORTENSON. On the old basis.

Mr. LATCHFORD (Cook). I have been told you submitted a five-year plan which indicated that one seventy-five would be sufficient for the proper operation of the schools, is that true?

Mr. MORTENSON. No, I think you have been misinformed.

Mr. LATCHFORD (Cook). The superintendent of schools claim they cannot properly function upon a rate of less than two dollars. If this is correct, why was not this called to the attention of the legislature at that time, and isn't it a fact that applied to the City of Chicago scale that is caused by a lack of cooperation, is that true?

Mr. MORTENSON. We simply did not succeed in getting the relief we asked for. We tried very hard in Chicago to have the same rate applied in Chicago as in other sections of the State, namely, a two dollar rate on the old basis; a compromise arrangement was agreed to which gave $1.80 on the old basis or $1.20 on the new basis which is considerably less than the rate which obtained in other sections of the State; that is because of the Juul law; I suggested it be made impossible in the future to have laws passed that should discriminate against any section of the State on educational matters; it is a thing that is past now, but it can be remedied.

Mr. WALL (Pulaski). How much of the State revenue goes for the schools of Chicago?

Mr. MORTENSON. There was an increase of three-quarters of a million dollars this year, fifty per cent increase, two and one-quarter million altogether of the distributable fund.

Mr. GALE (Knox). There are two or three questions which I would like to ask you in reference to the Federal law; there is a Federal law at the present time giving certain funds to schools if you do a certain amount of vocational work; is that right?

Mr. MORTENSON. Yes.

Mr. GALE (Knox). I want to ask you how much time in the vocational training is required under that law in order to get the assistance from the Federal government?

Mr. MORTENSON. Our classes are eight hour classes devoting at least half the time to vocational work.

Mr. GALE (Knox). Isn't it true that before the passage of the Smith-Hughes bill, before the need for compliance therewith, the pupils who took the cultural course also took the vocational courses without interfering with their other work?

Mr. MORTENSON. Yes, sir.

Mr. GALE (Knox). Has that been changed by the Smith-Hughes law?

Mr. MORTENSON. It is more difficult now because the requirements are much more rigid under the Smith-Hughes act.

Mr. GALE (Knox). Isn't it true in order to comply with that law the students taking the vocational training either lose the other training or those who take the cultural work lose the vocational training?

Mr. MORTENSON. Hardly true to that extent, but there is a tendency that way.

Mr. GALE (Knox). Does the operation of that result, or generally result in a classification of the pupils according to the course which they take, that is to say, cultural or vocational courses?

Mr. MORTENSON. It has that tendency.

Mr. GALE (Knox). Doesn't that make in the schools for class feeling?

Mr. MORTENSON. I hardly think it does in Chicago as yet, we have so few Smith-Hughes classes; our compensation from the Federal government amounts to only $35,000, a very small item; it has not reached the point where any great distinction is made between pupils in the Smith-Hughes classes and those in the ordinary technical classes.

Mr. GALE (Knox). What would be the revenue you would get from the government under the Smith-Hughes law if you went the limit in your high schools?

Mr. MORTENSON. I think it would be about $66,000, but I am not absolutely sure.

Mr. GALE (Knox). That is all you could get?

Mr. MORTENSON. Yes, sir.

Mr. GALE (Knox). What percentage is it that you pay?

Mr. MORTENSON. One-half of the teacher's salary; they pay nothing for equipment, nothing for overhead, but only for the teacher's salary, and that to the extent of 50 per cent.

Mr. GALE (Knox). I would like to ask your opinion as to whether or not it is a good plan in the schools to have the vocational work take so much time of the pupil that that pupil becomes classified, at least in the minds of the other pupils as one taking vocational work only?

Mr. MORTENSON. That would not be desirable in my opinion.

Mr. GALE (Knox). That his vocational work should be in additional to his cultural work?

Mr. MORTENSEN. Yes, correlated with it, as far as possible.

Mr. GALE (Knox). I thank you. (Applause.)

CHAIRMAN BRANDON. Our next speaker will be Mr. J. O. Engleman, city superintendent of the schools of Decatur, Illinois. (Applause.)

Mr. ENGLEMAN. Mr. Chairman and gentlemen of the Convention: I realize that your patience has been taxed this day with the presentation of school problems and school needs as presented by us school men, and yet I am sure that I must be right in assuming that you are just about as deeply interested in this general topic as we because after all you are in a certain very important sense the guardians of the liberties and the possibilities for progress on the part of children of a coming generation, and that is about all

we are as school men; in the last analysis I take it that you are educators in a very fundamental sense, and that is what we are trying to be.

I count it a privilege and an honor to have the opportunity of talking for just a few minutes, and I do it without a desire to tell you what you ought to do. I stand, however, with the State Teachers' Association as one of the men who endorsed the resolutions that have been introduced here, as one who perhaps does not know very much about some of the things that we have endorsed; I am quite sure that in a question as technical as that of revenue raising and the best taxing system where experts spend months and years in attempting to find the best solution of problems, we can be excused if we do not understand all the implications sometimes of the things we recommend. I am sure, too, it is in harmony with the processes perhaps of legislative bodies themselves in general in which men must be called upon to pass upon and endorse certain measures that have been scrutinized by a few in a committee to which certain questions have been referred, and yet with the distinct understanding on the part of most in the legislative body that not everybody has had an equal opportunity to understand all the minutiae of the thing that has been voted upon.

I am not here to discuss, and I wish to disclaim at the outset any ability to discuss the problems of revenue raising and taxation, although I am one very much interested in this subject and the bearing it has upon the administration of schools.

I want to add from the standpoint of a downstate school man to the thing which has been well done by Superintendent Mortenson of Chicago, that is, to add my word and my contribution to a statement of the condition of the public schools of Illinois today, and their growing needs as viewed by a downstate school man.

Mr. Mortenson and others associated with him have problems which we do not have in the rural districts down the State, but there are many problems which we do have in common, and I want to refer to a few of those that you may have the sort of back ground that we school men think we have at least for the consideration of remedies that may be applied in part by the Constitutional Convention and more largely later on by legislative action.

I think you will appreciate in part, at least, the need of the schools of Illinois today if I simply state very briefly the task that confronts them as imposed by citizens throughout the State. You know the time once was when the business of the public school was to teach the Three R's, and if we did a fairly good job at that, teaching reading, writing and arithmetic we were excused from further discharge of responsibility, but to the teaching of the Three R's has come one by one the teaching of other subjects which Mr. Mortenson has referred to; we have a whole list of subjects that have been introduced in recent years that are designed to give the boys and girls a broader foundation, and that will serve them in their earning capacities as future bread winners, makers and heads of homes. There is a whole category of subjects that it is our business to teach, some to be elected by one child and some by another, but no system is regarded as half way up to date if it does not present from one to two or three or a dozen distinct opportunities which will serve the child in a very distinct and specific way in his bread winning occupations of later life. We have a number of subjects which have been introduced which have to do with the training for citizenship and appreciation of our government, and of what constitutes a good American citizen, and to these we must give a good part of our attention; these duties were not imposed upon the teachers of an earlier decade, and we do not conceive as school men that we have discharged our responsibility if we merely teach the Three R's, but to this we must add elemental and fundamental lessons in morality and questions that relate themselves to good citizenship, and acquisitions and possessions that must be the heritage of every boy and girl, every man and woman of the next generation. The schools are being called upon today as never before to supplement the home, to supplement the church and to supplement industry in certain ways, and supplement every agency that once had a large part, once had the

major part, indeed, in the training of the youth of the land. The truth of it is that so much of our population live in the cities and villages that we have very little opportunity to give in the home and on the farm as we once did those fundamental and elemental lessons and training that once comprised the more valuable part indeed of the education of every child, and in the absence of that sort of opportunity for normal training, we must supplement it today by more specific opportunities in the school room, and must furnish it at considerable cost. We are appreciating the importance of health, of health conservation, of health habits and of health instruction, of clinics, playgrounds, playground supervision, recreation, of medical supervision in the work of schools, and all of those things require money which once was not demanded of the schools nor invested in them. Not only that, but we have had our attention called to the work of Americanization; this has come to be one of the vital features of public schools everywhere, and it is not only encouraged but insisted upon by almost everybody in positions of responsibility from the President and the Governor on down, and this too takes time and it takes money and it takes trained teachers, it takes equipment, and this too with a limited fund, which means that it must be done poorly or not done at all, or that some of these newer things must be done in a slip-shod fashion or not done at all, or we must have a very much larger provision for the doing of these worth while things.

I think we can appreciate the condition that is surrounding us if we note the very rapid expansion of the public schools that has gone on since this Constitution which we are laboring under was first adopted; in the first place the kindergartens are adding a year to the former requirements of public schools at the lower end of the ladder. We have had a marvelous expansion of high schools throughout the State as well as throughout the United States; four years added on top of the eight years of the elementary school which we formerly knew and these four years are almost as expensive, and necessarily so, as the eight years of the elementary school; if they are not quite so expensive as that they add very much more than fifty per cent to the cost of continuing the eight years of the elementary school; in addition to that we have had legislation that makes it necessary and obligatory for us to provide educational opportunities for boys and girls in continuation schools. In my own little city, a small one, only 1/50 the size of the City of Chicago, the report of the State Department indicates that last year we had 422 children, and next year educational provision must be made for a certain specified number of hours per week for boys and girls between the ages of 14 and 16 who have not completed their high school education, and this of course has been ignored heretofore, and this number will increase because the following year the age limit will be seventeen, and the year after that it will be increased to eighteen, so we are adding considerable more to our sense of responsibility in making new demands upon the treasury of the State of Illinois and the school districts of the State. I think we can appreciate the status of the schools today when we consider the great expansion of the system, the greatly diversified curriculum, the added cost of the system, and when we take into consideration starting with the last two or three years that there has been a lamentable loss in revenue, and particularly in our teaching staff. Those who are in a position to know have collected statistics, and they tell us that out of approximately 600,000 teachers employed in the public schools of the United States, 100,000 have dropped out of the profession within the last year or two, attracted by the greater profits, by the greater opportunities of earning a livelihood in other pursuits. In our State and other states the normal schools that have for years been training the teachers we employ have greatly reduced enrollments; they have nothing like the size of graduating classes that they once had, generally speaking, for us to draw from when we go to recruit our rapidly depleting ranks this time of the year. It is not only true that we have lost from the profession as a whole, but the opportunities for recruiting it are greatly diminishing, and we have been compelled as a natural consequence to place in the schools

throughout the country in every city and village within the last year or two scores and hundreds and in the aggregate thousands of teachers that we knew as administrative officers, as superintendents and as boards of education, were not qualified; we knew they were not worthy of their places, we knew that the great responsibilities that ought to rest upon public school teachers these teachers were not trained to discharge, and so we have been taking in teachers that could not pass examinations, that could not show by reasonable examination they were fit, and have simply issued them emergency certificates by the thousands that we might have somebody at least to put in charge of the children. Never until the last year or two has it been necessary in a city so small as ours to dismiss five, six, eight, fifteen and sometimes twenty rooms a day, as it was this winter, because of a lack of any sort of teachers, trained or untrained, and this thing has come about within the last year or two, and is not confined to Decatur nor even Chicago nor confined to any one district nor confined indeed to this State, but we are all suffering alike from this dearth of teachers. Decatur's experience seems to be typical, so I will venture to quote just a few facts concerning it.

In the first place, with a staff of a little more than 200 teachers we started out in September with 60 untrained or largely untrained teachers and since school opened in September we lost twenty-five more, making a change of 85 teachers out of a staff of 200, nearly forty per cent, considerably more than one-third. When you think of that sort of turn over, as the business man would call it, in a city the size of Chicago or New York you can appreciate what it means; if Chicago had lost as much in one year it would mean 4,000 teachers lost or thereabouts; New York City was quoted in the press just a few days ago as having lost some seventeen or eighteen hundred, I am not sure of the number any more, but if New York had lost in the same proportion as Decatur it would have lost some 8,000 teachers, because New York City is just about one hundred times as big as Decatur with a teaching staff about one hundred times as large, and a school enrollment one hundred times as big. Another result has been that we have put in when we could get anybody at all, in thousands of cases throughout the State put in teachers we knew were not capable of teaching. Teaching is a big responsibility, a difficult task; I do not know of any place in our citizenship, I do not know of any job or task or profession that calls for more of heart and head, concentration, enthusiasm, of good hard common sense as well as other virtues and accomplishments than that of the elementary and high school teacher, and yet we have been taking in teachers by the thousands who were deficient in almost any combination of these qualities that you care to mention. I was talking a little while ago with one of the leading citizens of our city, and he said with an oath, "I won't send my child to one of these little squirts"—for that is the word that he used, "that you are putting in the public schools; I do not blame you for putting them in, but I won't have my child under that sort of a teacher." There are other citizens that won't and it is hardly to be wondered that they will not. One of the inevitable results has been and is the multiplication of private schools, multiplication of the number of pupils sent by parents away from the public schools with all of their incompetency, with their poorly trained and incompetent teachers, and a great number find their training in private and parochial and other schools. What is the objection to that? Why is not that clear gain for the State? One of the dangers aside from the fact that some of the children must be taught by those who are incompetent, one of the sad aspects of the case is just this fact, that because there are in every community certain citizens who are financially able to get their children out from under conditions they regard as deplorable, or remedy the situation by sending them to private schools, we are setting up here in America lines of class, and lines of caste, a demarkation based upon money values, based upon ability to pay bills, based upon wealth.

Now, if I know anything about America, if I know anything about the democracy we have been talking about, preaching about, writing about and

fighting for within recent years, it is this, that it is a thing that concerns all the people; that in the last analysis it means we must have public schools for training our whole citizenship to work together, to live and think together, to sympathize with each other, and no where else can that come about more effectively than in the public schools, and not there, if those who are in positions of financial independence, recognizing the limitations of the public schools, are privileged to take their children away to escape the hardships imposed by incompetent public schools by putting their children in some sort of school that will break down democracy and make for snobbishness and invite misunderstanding.

I think one of the biggest things to think about is the problem of getting the people of the next generation to understand each other and see each other's point of view. If I am permitted to mention a little thing which came under my observation in our own schools I think it will illustrate the idea I have in mind:

Partly as a war measure the Commissioner of Education encouraged the preparation and the dissemination of a number of leaflets and pamphlets upon the teaching of community and national life as a more vital form of civic teaching, and those were distributed after being prepared throughout the United States and public school men were encouraged to introduce them as a partial basis of their civic teachings in the high school grades. There were all sorts of lessons prepared under the direction of the Commissioner of Education, and I remember while these were being used in our own schools the president of one of the large manufacturing industries of the city sent a rather vigorous letter of protest to me against the use of those pamphlets in the public schools because there was an effort being made through those pamphlets to help the high school pupils to get an all around social point of view, and there were at least some questions in those pamphlets that caused this manufacturer to think that his particular vocation and his particular class in society would be prejudiced or rather the coming generation would become prejudiced in certain respects against his class. Over against that we had more recently some protests while the great coal strike was on that was being participated in by a great many coal miners living within the city limits of Decatur, because we have two coal mines within the city limits, and while that strike was on and discussed by everybody everywhere and being written about in the local papers almost daily and while the coal miners in many instances were condemned for their stand in holding out and staying away from mines when people were suffering, one or two of our junior high school teachers conceived the idea of using the strike as a subject of study in the junior high and set the students to studying the question of the strikes from the attitude of the miners, and she also got them to thinking of the strike in terms of the public's point of view, of the miner's point of view, in terms of the point of view of the owners of the mines. That was a sort of thing most of them had not been doing up to that time, and we had some vigorous protests from the miners because their assumption was that the study of this sort of thing in the public schools was going to prejudice somebody against their cause, thinking that there was only one side to that question; the teacher saw there were at least three sides, as every intelligent man and woman concedes there are, the side of the strikers, the attitude of the labor union man and the owner of the mine and the public, and she was trying to get her pupils to take that all round point of view. Just as the teachers of that high school were trying to get their students to take this point of view, a broad-minded point of view, I think that the public school at its best must do to make it possible if it is to survive and to thrive to make it possible for all of us to live together in terms of mutual understanding and harmony in the future. That sort of thing I conceive to be one of the fuctions of the public school, and that is the sort of thing that cannot be done when we have to pay little women who are unfit and unprepared and untrained for their task such meagre salaries as would not be offered by anybody else who em-

ploys labor in almost any other line; as long as that is true we are not going to be able to attract the kind of men and women we should have in mind, and heart and common sense to be the teachers of the boys and girls of Illinois. I have tried to present the sort of picture that we actually have. I am not a pessimist, I am exactly the opposite of that; I have been rather despairing at times of the outcome because there is so much that is discouraging for us public school men and women of today, and yet I have been more heartened within the last few weeks than at any time in the last several years, in feeling this to be true, that not only in Decatur but throughout Illinois and the Nation there is an awakening of appreciation of the public everywhere to the importance of the public schools and the service they are rendering to the public, which means in the very near future we are going to be willing to pay what it costs to run good schools throughout the State. My only excuse for coming before you at this time is that you might appreciate the fact that you might insofar as you have the opportunity first of all as intelligent citizens and later on in your respective communities, create public sentiment favorable to better support and better recognition of the schools and more specifically insofar as you find it in your deliberations and good judgment to create conditions, constitutional provisions in this fundamental basic law upon which you are working that will make it more easy, or will make it possible in the last analysis for the legislatures of the future to give to us that increased revenue that we know good schools are going to cost, if you will do it, and I believe you will do it, I am sure you are interested in this thing, and that even in advance of our coming you have it in your hearts to do what you can see possible to do. I thank you again for this privilege of talking to you. (Applause.)

CHAIRMAN BRANDON. When the committee first talked about this program they said if we would provide the time of this committee that all the beauty and chivalry of the education system of the State would be with us today. There may be some question about the chivalry, but there is no question about the beauty. It gives me great pleasure to introduce Mrs. Ida Fursman, assistant principal of the Lynn School of Chicago. (Applause.)

Mrs. FURSMAN. Mr. Chairman and members of the Constitutional Convention: If it were not that I am the first woman to be called on I would feel that I should give up the very few minutes that are allowed me to much more important speakers to talk about the thing you really want to hear, but after the very polite introduction I had I could not refuse to come down here and look out in order to see the beauty that is in front of me.

I want to make just two points: Perhaps they have been made already, but you will probably remember them a little better if put out by themselves. We have come here to tell you that we need a great deal more money for the schools, because we want to do in the schools the things you want us to do and we cannot do those things unless you provide the money. We believe that you can do it because we have lived through the period when you found in this State not millions but billions; you found that money for war. We believe that if you will find it for education maybe there will be no more wars; we believe the way to avoid war is to educate the people. Now, you want us to Americanize the children in our schools. We cannot do that unless we have smaller schools put in charge of teachers. That means additional teachers, more money; we cannot do it unless we have a greatly extended use of the school plant; we keep hearing all the time that the schools will have to run more hours in the day, more days in the week and more weeks in the year. We believe that the schools should be run practically continuously in our great cities; we believe it because we know that when we are not taking care of the children, the children are largely neglected; we believe it is in those hours that the children are away from us that they learn those things that make them in the eyes of all law abiding men and women undesirable citizens; we wish to make of them even better citizens than those who are our contemporaries; we have a splendid class of boys and girls in our schools. There are times when we feel that under proper teaching we could make anything of them; there is nothing we could not do with those children when we get them young enough and keep them old

enough; we plead with you to give us the money in order that we may do those things. We do not believe we want it selfishly for ourselves; some of it the teachers have to have, they have to live in that bigger, broader way or they cannot bring the big things to the children; the other thing we want to do, that you want us to do is to bring the children into a closer touch with life, and by that we mean all the activities in which men and women spend their time; we mean industrial and social activities. These things must be brought more and more into the classes and both children and teachers should be brought more and more in touch with those things ouside of the schools, otherwise there cannot be the close cooperation between the industry and the schools that you desire and that you would like and that we would like to help you bring into operation.

Now, gentlemen, we are sure you see the need of this extra revenue, and we hope that you see that we shall endeavor to spend that money so that you will get a high value for every penny that you spend in our great public schools. I thank you. (Applause.)

Mr. MOORE (Macon). Did you ever calculate the relative value of a young school teacher's salary and that of a cook?

Mrs. FURSMAN. If I would compare it with the cooks I have had in my own family I would say that the teachers are worth more than the cook, the cooks I have come in contact with.

Mr. MOORE (Macon). Did it ever occur to you to calculate it?

Mrs. FURSMAN. In what way, her value to society?

Mr. MOORE (Macon). The value of her recompense?

Mrs. FURSMAN. You mean the value society puts upon her services?

Mr. DAVIS (Cook). He wants to know the difference between a cook's and a school teacher's salary.

CHAIRMAN BRANDON. Isn't it true, taking into account the fact that the cook in the average home gets her board and her room furnished, and gets wages of approximately seven or eight or nine dollars a week, that the average cook—— (Laughter.) I see I have made a mistake about the cook's salary—does the pay of cooks in Chicago, taking into account the fact they have their board and room exceed that of the average teacher?

Mrs. FURSMAN. Possibly it does, but even so I would rather be a teacher at what I get than be a cook at what the cook gets.

Mr. MOORE (Macon). I wanted to bring out the fact that I happen to know what the average school teacher in my town gets, when wages were even less than ten dollars a week, and taking it altogether at the end of the month when she has to pay her board and live in the style it is necessary and right that the teacher should live, that the cook in the average kitchen is getting a bigger amount of money at the end of the month than the school teacher is. I wanted you to say that, that is all.

Mrs. FURSMAN. It is always a puzzle to the women why the men will let that go on when they know all about it. (Laughter.)

CHAIRMAN BRANDON. The next speaker will be Mr. G. W. Tanner of Cook County.

Mr. TANNER. I would like to pass my turn to the next speaker. (Applause.)

CHAIRMAN BRANDON. Miss Bess Sullivan of the elementary forces in Cook county.

Miss SULLIVAN. I do not like to be a copy-cat, I do not mean to copy Mr. Tanner, but I am going to do about the same thing Mr. Tanner did, I am going to pass and let these people who are on the Revenue Committee get before the Committee. (Applause.)

CHAIRMAN BRANDON. C. C. Dodge, Principal of Hibbard's School, Chicago.

Mr. DODGE. I feel very much as the preceding two; most of the matter I had in mind has been pretty well covered by Mr. Mortenson and I shall be very glad to yield my time to the ensuing speakers. (Applause.)

CHAIRMAN BRANDON. W. S. Caldwell, Engineer of Chicago.

Mr. CALDWELL. It might be wondered by the members of the Convention what interest an engineer would possibly have in the Constitution of

the State of Illinois, and I am down here with the educators with the purpose in mind of showing first the unity of purpose behind the movement toward getting better methods and better Constitutional provisions and better legislation in the General Assembly, and also to demonstrate that there are other things besides salary increases that the public school forces of the City of Chicago are interested in. The school engineers of the City of Chicago are members of the labor union and if the Board of Education does not pay them sufficient salaries they can enter into competition in industrial life; they are not in the position that the teachers are in, who can sell their services only to the public. We desire to participate in this movement to show that the movement is unselfish. I had hoped to have sufficient time to point out to the members of the Convention the enormous investment that the public at large has in the buildings of the City of Chicago and their proper interest therein, but I will yield to the next speaker with the hope that the members of this Convention will give close attention, not only to the provisions in the Constitution relating to education, but will follow them up at the next session of the legislature and see that proper legislation is enacted that the schools of Chicago may have proper relief. (Applause.)

CHAIRMAN BRANDON. We have this afternoon a man who primarily represents this question from the standpoint of the school board; he is the president of the association of school board members of the State of Illinois, the Honorable Roy Brown of Rockford. (Applause.)

Mr. BROWN. Mr. Chairman and gentlemen of the Convention. I am not a professional school man; I happen to be an official of the State School Board Association and in the last five years I have been associated as the legal adviser of the Rockford board and I realize some of the problems that the members of the Boards of Education have, especially those of a city the size of Rockford. The last budget of the City of Rockford is over one million of dollars and it is not adequate to take care of approximately 10,000 children who are attending the schools.

Mr. Engleman of Decatur and Superintendent Mortenson of Chicago have told you in a better way than I could of the demands that are now made upon the public school system; the demands are growing, they are continually growing and the Americanization work which is now being put forward by almost every organization that is engaged in looking after the public welfare is centering all this work upon the Boards of Education and the school directors, and in order to carry out the work of course there must be more revenue; as an officer of the State School Board Association we have no plan of how this should be produced. We believe that there should be as few mandates in the Constitution in respect to revenue as possible, as few limitations as possible so that the General Assembly will have the power to enact laws that will be sufficient to produce revenue that will be necessary in the future to do what the public school ought to do and what the people of the districts intend that they shall do.

Mr. SUTHERLAND (Cook). Without going into details as a citizen, you are under the impression that the present revenue system is not working productively or equitably?

Mr. BROWN. As far as personal property tax is concerned, I think that is true. That is all I have to say. (Applause.)

CHAIRMAN BRANDON. I next present Mrs. Fannie S. Merwin of Manito.

Mrs. MERWIN. Mr. Chairman and gentlemen of the Convention. I have but one excuse for taking a moment of your time. I come before you representing the rural districts. I am glad that I am to speak on the rural district conditions, because I attended a district school for ten years, taught for twenty-five, have supervised for four and am still teaching country schools. I feel that I know something about country school conditions. I think my county is typical; we have one district that can scarcely levy little enough money because it gets revenue from two branches of railroads, and we have right along side of that district another district that can scarcely maintain a seven months school.

We have one county in our district where there was no school for thirty years; men as old as I who never were in school and I was the first teacher they ever saw, and you know what a small sample they began with. While I was pleading to get a school in that particular district the county spent $20,000 to send one of those boys to the penitentiary, and I was asking but $260 to maintain a little school for six months. It is not good business not to send children to school, and it seems to me in the country districts where the need is so great there should be more equal taxation where the tax unit ought to be larger so we might get the revenue where it is needed, or as William Holly Smith used to say we should put the grease where the squeak is. We should pay more attention to the open country road. It seems to me there is danger in sending children all the time to the town high schools, because there is so much danger of weaning the children away from the farms.

It is hard to get teachers into the country schools, and why shouldn't it be when the average wage in the country districts is $600, and out of their little $66 or $71 they have to pay their board. Talk about a cook's wages, a cook gets six or ten dollars and their board, but out of the $600 the school teacher has to pay $240 or $300 for board. That is the difference. I am not kicking myself, because I will teach school, I suppose, if there was no money in it, I would teach for nothing, because I have got the disease so bad. (Laughter.)

It seems to me that in asking people of good sense, and that leaves me out, perhaps, it is foolish to ask people with good sense to put money into training for a profession that is going to bring them $400 a year to start with and $600 to end with when untrained labor gets much more than that and trained labor gets one dollar an hour; it is not fair to ask anybody to do that, and then the government is pleading for teachers to come into the civil service at larger salaries. It seems to me the government had better be doing something else, because unless we can offer some inducements for good women to come and teach in the country we will face an even worse condition than we are now, because all of the problems cannot be met by higher wages, but a great many of them can. One of the dangers is that of incompetent teachers, and I know of children in the sixth grade who do not know the multiplication table, children in the third and fourth grade who do not know their A, B, C's, children in the fifth grade who cannot count to one hundred. Oh, I have seen it over and over again, because of teachers who have no business teaching at all, and yet we cannot ask the people to come into those districts, where they do get board they have no fire in their room, and where they must associate with the family every evening, which is not so bad possibly, but sometimes they have to have privacy when they have work to do; we cannot ask them to do these things unless we can offer them at least a decent wage, and we cannot do these things unless we interest ourselves in these conditions; I know this comes under the statutory law, but I am begging that you may write as few limitations as possible because these things are increasing all the time; we are going to have consolidated schools in the rural districts; in many instances we have schools with two or three or four or five or six children, and those schools can be consolidated and we can save the money, but we have to have them consolidated in the proper way, and I beg of you not to think of consolidating country schools with even small town schools because it is coming to the place where production is not equaling demand and people are going off the farms, but when it comes to the time when the last slice of pie and the last spoonful of potatoes are eaten, they are going to be eaten on the farm. (Applause.)

CHAIRMAN BRANDON. May we have a few words from D. Walter Potts, superintendent of the city schools of East St. Louis and president of the State Teachers Association.

Mr. POTTS. The fact that the Constitutional Convention dedicated this day to the cause of education is evidence of your interest in the subject. The fact that you have been here all day listening patiently to the various speakers who appeared upon this platform is exemplification of your interest in humanity. I do not know whether you want any repetition or not, I do

not think I will have to repeat. You have heard something of the condition in Chicago, about similar conditions in the City of Decatur; let us drop a little further down to East St. Louis and that part of Ilinois. In 1917 our deficit amounted to $30,000; in 1919 to $39,000. We were the first city, I think, in the State of Illinois, to take advantage of the law that was passed by the last General Assembly providing for an increase in taxes for the support of the public school system of Illinois. We did not have a single parade, we did not put out any posters, we did not blow any horns, we did not write any posters at school and send them home to the parents asking them to help us raise taxes in East St. Louis and vicinity. We submitted it to the people and it carried, and we are proud of the fact that so far as our records show no proposition has ever been submitted to the people of the city that has not carried with tremendous majority, and we feel that if the people of our community are given an opportunity to increase taxes in order to increase the efficiency of the public schools of that city they will be increased. How it ought to be done, I don't know, what you men are going to do about it, I know from the questions you have put you are interested, but what the solution is I don't know. I do not think I have heard anybody suggest a solution, but there is undoubtedly a solution, and the only thing I want to say anything on is the point of increased revenue for the public schools of Illinois. We are not afraid of section 8, or the people living in Illinois as to whether they want this taught or that. Several times during the day I have been thinking that it does seem a litle bit inconsistent for the people of the State of Illinois interested in educational problems to stand before a body of selected men, 102 in number, I think, the very cream of the State of Illinois, perhaps have had better educational opportunities than a majority of the people of Illinois, and plead with them for better educational opportunities; you are the very fellows who have had these opportunities somehow or other, I don't know how, but the fact that you have them and did have them I know makes you want your neighbor's children to have them and the other fellow's neighbor's children to have them; now, we expect great things from this Constitutional Convention. We have a right to expect them; it is a long time from 1870 to 1920; you have been told from this platform, don't tie the hands of the legislature; we won't want it done; we want them untied if they are, and I believe you can leave it to the teachers and the school officers of the State of Illinois to do their share if you will give them the opportunity.

Now, on behalf of the Illinois State Teachers Association again, gentlemen, I want to thank you for the dedication of this day to the cause of education and for your splendid attention and for your courtesy and for your interest. (Applause.)

CHAIRMAN BRANDON. Gentlemen of the committee, we have now concluded the first two sections of our program dealing with the Constitution proper and the present condition and the growing needs of the schools and ready to take up the specific question of revenue, and with the consent of the committee I would like to give the chair during the consideration of that section of this program to Mr. George Gale of Galesburg, chairman of the Committee on Revenue.

Mr. LATCHFORD (Cook). Before you turn over the chair to Mr. Gale, I would like to have the record of this afternoon corrected; one of the gentlemen propounded a question to Mr. Blair which was as follows, that the children should write English, read English, speak English and be English. I want that corrected to be American. (Applause.)

CHAIRMAN BRANDON. I know that Mr. Mills will be glad to correct that because of his intense patriotism.

Mr. MILLS (Macon). I wish the English language was the American language.

CHAIRMAN BRANDON. I will ask Mr. Gale to take the chair.

(Mr. Gale presiding.)

CHAIRMAN GALE. Gentlemen of the Committee: There are four speakers on this subject on this section of today's program. I do not suppose it will be possible for them to finish by the time we reach the usual

hour for adjournment. I would like to ask you that the questions which you wish to ask these gentlemen shall be noted by you and reserved to the end of their speech. The first speaker we will hear from will be the Honorable David Felmley, president of the Illinois State Normal School.

Mr. FELMLEY. Gentlemen of the Convention: We are interested in the question of revenue more than in any other question connected with our coming here today. Of course, the reason is easy to see, for without adequate revenue we cannot build buildings and equip them, pay teachers and have schools. Now, we are interested in this matter of revenue chiefly but we are not laying before you any particular program of raising revenue, that is for you and the legislature, but we are interested in certain things in regard to this revenue. First, section 1 of article 8 of the Constitution provides that: "The General Assembly shall provide a thorough and efficient system of free schools whereby all children of this State may receive a good common school education." We want revenue enough so that may be done. We want to know that all the schools in the State will be sufficiently nourished so that none of them shall be called inefficient, so that the children in all parts of the commonwealth may obtain a good common school education. Our first wish is that the revenue which is used for these things, that the burdens of public education, shall be equitably distributed. We do not want the burdens to be so inequally distributed that some citizens should feel they are victims of injustice in supporting it. A few years ago in the City of Omaha all the saloon licenses were turned into the school fund. I heard some of the teachers say that they would rather have less salary than to feel that their salaries were coined out of the tears and sobs of women and children.

We are not interested in the kind of revenue, but we want an equitable revenue system and we think the revenue should be so distributed that there will be no temptation to waste or extravagance in any part of the system. There is now a great deal of waste in our school system, there is some extravagance, and we should like to know that there is such administration of the revenue as is economical and efficient; there are features of our school distribution that are neither economic or efficient, and the consequence is that some of the revenue is lost on the way that should go to the children. Most of this should be trusted to the legislature, you will say. Unquestionably, that is so. I remember reading some 30 years ago, in James Bryce's American Commonwealth a statement that the American States are original sovereigns and the American legislature can do anything it pleases except so far as it is restricted by the State or Federal Constitution. We know it is your duty so to arrange the revenue provisions of the Constitution that it will be possible for the legislature to find adequate funds and distribute these burdens equitably in the common school system and cut out waste and inefficiency.

Our school system began in Illinois in neighborhood schools with a little public fund derived from the sale of public lands, but mostly supported by the tuition that was paid by the parents of the children. When in 1855 our free school law was established it was made mandatory upon every school district in the State, (and the whole State was cut up into school districts) to levy a sufficient tax to support schools for six months. Now, I think we shall agree that if the wealth of the State had been distributed among the various counties and districts in accordance with their population, an appreciation of the value of education had been distributed among the counties and districts, and if there had been men of initiative and public spirit who would take the lead in seeing that good schools were established under the provisions of the law, no other revenue provision would have been necessary. But as we know the wealth of the State has never been distributed in that way and the educational leadership of the State has not been distributed in that way. In the very beginning of our public free school system in 1855 it was provided that school taxes be levied two mills on the dollar wherever that property might be to be distributed to the county and districts in proportion to the number of children in each;

that is because even then it was recognized that there was this inequality; this inequality is becoming vastly greater than at the early time; first, we undertook to support schools and now we do not distribute the burden of public education equally. I take it we all recognize it is a public function, and such function is not merely a neighborhood function; to be sure the neighborhood is interested in the children of the neighborhood, they want to see them grow up to be men and women and to be an honor to the society in which they live, that is all true enough, but we also know that with the mobility of our modern population no neighborhood paying for good schools for itself can protect itself from the incompetence and ignorance that will come from other communities where good schools do not exist. We maintain schools generally on the theory that we must have in a democracy political independence, and public spirit which good schools always nuture. We believe, too, that education itself leads to efficiency, the efficiency that makes better citizens, and a better citizen makes a larger contribution to the wealth of society as well as to the other view that exists is a well ordered social State.

Now, I just happened to notice a day or two ago when I was signing a check for a man who worked for us in the Normal School, that the man had to make his mark in signing the payroll in receipt of his check. I inquired where he was from. He was a Kentuckian; thousands of Kentuckians and thousands of people from southern Illinois where schools have been relatively poor float north; they carry their civic ideas into the wealthiest and most cultivated portions of the State; they move into Chicago; a carpenter that botches his job in Egypt is as likely to spoil his material in Chicago as if he remains in his native village. It is to the interest of everybody in the State that every child in the State should have every opportunity to develop his talent and his character, and that is what I mean by saying that education is a State function and not merely a neighborhood function.

I want to talk to you first of all about a block of counties, 22 in number in southern Illinois, in which the average school term of all the schools including the city schools is only 7.1 months while in the City of Chicago we have ten months, 8.4 months for the rest of the State. In these 22 counties there is a total population of just about one-twelfth, 8.3 per cent, of the population of the State, according to the latest census, last census, but the assessed valuation of the property in those counties is only 4.5 per cent of the valuation of the property in the entire State. You may think that down in Egypt the assessor does not see the property that is there, but on the contrary when we take the wealth statistics of the last census we find these counties contained only 3.6 of the wealth of the State; in other words those Egyptians are assessing themselves 25 per cent higher than the rest of the State is assessing itself providing we assume the census figures of wealth are correct. Suppose the size of the families is the same, if they have 8.3 per cent of the children of the State, only 4.5 of the assessed valuation of the State, they must tax themselves $184 where the whole State including them needs to raise $100 per capita to provide equal financial support for their schools.

Let me give you some other facts in regard to the schools in those twenty-two counties; I spoke of the fact that the school term was seven and one-tenth months; the children have only 69 per cent of this time, that is the average daily attendance, while in the State at large it is 88 per cent. Each child attends 102 days on the average and in the State 147. Only six per cent of the school enrollment is in the high school while in the State at large it is 10.6 per cent in the high schools. What are the teachers' wages; the average teacher's wage in 1918 was $426 while in the State at large it was $805. There were in the State in 1918, 817 teachers that got less than $300 a year, which is rather low pay, we admit, and yet 388 of the 817 were in these 22 counties that contained only one-twelfth of the population of the State. As to the size of the schools: There were in Illinois in 1918 over 3,000 schools in which there were fewer than sixteen pupils, but of the 3,000 schools only 94 were in these counties. They have large schools. The average enrollment in their country schools in 1916

was 36, while in the 12th congressional district the average was 18. The average cost of tuition to each of the pupils was $11.07 while in the 12th congressional district the average cost per pupil in the country school was $29.25, almost three times as much as in this portion of southern Illinois. We find in that portion of the State where the people are paying the most school taxes, where the property is least but paying the most for the education of their children, that they have the poorest paid teachers, we find the most teachers with third grade and emergency certificates, we find the shortest school terms, the largest number of children to be taught by each teacher, and the lowest school spirit. Ultimately the best asset of Illinois is not its coal or its fertile soil or anything that nature has made, because those things were here for ages, but only when there came to this State intelligent people of character who built the commonwealth, and it is as true today as in the days of our forefathers that the productive power of our State is developed by the intelligence and character of our people and it is the crude resources of the State from a financial point of view as well as the moral and spiritual qualities of its citizens that make a State.

These statistics of the 22 counties are two years old. I have only a few data for the present year. I shall present the case of two of our smaller counties, Piatt and Cumberland. One of these counties is in the black soil, the other just below the margin of the black soil. Both are purely agricultural counties with no large towns, no considerable manufactures, no mining. Piatt has 87 teachers in one-room country schools, Cumberland 82. In Piatt there are two teachers getting less than $600. In Cumberland 72 of the 82 are getting less than $600. Under $400 t are none in Piatt, 16 in Cumberland. Between $400 and $499, none in Piatt, 43 in Cumberland. Between $500 and $599, 2 in Piatt, 23 in Cumberland. Between $600 and $699, 25 in Piatt, 10 in Cumberland. Between $700 and $799, 11 in Piatt, none in Cumberland. Between $800 and $899. 27 in Piatt, Cumberland is out. Between $900 and $999, there are 12 in Piatt. Between $1,000 and $1,100, there are 10 in Piatt. The average pay of the country school teachers in Piatt is $789, for the teachers in Cumberland, $486. Notice that the pay in Piatt per teacher exceeds the pay in Cumberland by more than $300. The law permits school boards to tax $1.33 on the hundred dollars. In Cumberland with its low pay the average rate is $1.28, in Piatt only $1.01. I am bringing these statistics before you so you will know the story of that section of the State, but there are people here who know that part of the State; and who know that those acres down there that sell for $50 an acre, can be made to yield almost as handsome a revenue as any other part of the State.

What we plead for is a sufficient State school fund so that the schools in this part of the State can be adequately supported with the help we can give. In Pope county today there are only 13 districts that under the existing tax law can raise $500 for the support of their schools, and what is $500 today?

Beginning in 1873, as most of you are aware, the legislature granted a million dollars to the schools of the State, and for a period of 38 years there was this uniform distribution of one million dollars. In 1911—we began as a body of teachers twenty years ago to plead for a large State school fund—we had an exceptionally liberal legislature and they gave us another million; and then in 1913, three millions; 1915, four millions; 1917 four millions; the last legislature gave us six millions for the school fund. That would have been sufficient if the price levels had stayed where they were. At the present time six millions of dollars will pay about $180 on the average of each teacher's salary. It would be less where the school is small and more where the district is large, but at the present level of prices I take it $180, the contribution toward the teacher's salary is not enough, and I think provision ought to be made, the road ought to be cleared in some way so that the legislature will see its way to double that sum; that would make $360 on the average teacher's salary to be paid from the State treasury.

The State realizes its responsibility to provide for education as a State function, something in which every part of the State is interested.

Next to that there ought to be a county school tax. We have no county school tax in Illinois; they have it in nearly every state in the Union. Wisconsin has recently provided that every county must levy as much money to be collected from the county as the county received from the State the preceding year. We must have it here because of the local inequalities of taxation. I take it that the people of the county are more likely to be careful of the money raised in the county than money received from the State. It is one of the fundamental truths of our American political system that local self-government means less expenditure and it often means niggardliness. Now, just to illustrate: Every one of you probably knows in his own county of instances something like this: Now, take Knox county, Illinois; just outside the City of Galesburg there is a plant for preservative treatment of railroad ties. That plant is not in or was not at that time within the city limits of Galesburg.

CHAIRMAN GALE. It is not now.

Mr. FELMLEY. The assessed valuation of the school district in which the tie plant was located in the year I investigated was $340,000. That was a larger assessed valuation than the total valuation of eleven school districts of that county, that had a total attendance of 210 children. Now, in this district, there were 15 children attending the school, the school teacher got at that time forty-two dollars and a half per month. The workmen who worked in this tie plant nearly all lived in the City of Galesburg. They came out in the morning and went back at night; the city district of Galesburg was taxed for the education of the children of these workmen, while the property they were making productive was not contributing one cent to the education of their children. This violates a fundamental principle of local taxation. If labor makes productive any piece of property that property should be taxed primarily for the education of the children of these laborers. I think we must recognize that as a sound fundamental principle of local taxation. This tie plant escaped that tax, with a tax rate of 14 cents; that is all it had to pay. This is an extreme case, possibly, but there are plenty of other cases. Take where a railroad runs through a township, the railroad is assessed, and the tax or the rolling stock is distributed along the lines of the track, and the school districts which it runs through get a large part of their revenue from the taxes of that railroad, but the other districts that lie just outside the railroad line, pay as much money towards the railroad, but get nothing. In the case of the rural districts, there are no people working on the track, nor in connection with the movement of the trains. There are several districts where one-third of the revenue of the district is obtained from the railroad tax, while the other districts just beyond get nothing. Where mines are opened, if the mine is in the town where the miners live the mine is taxed, of course, along with the other property of the town, but how common it is in Illinois for the mine to be outside of the city limits within which the miners live. In the City of Springfield sometimes in the gray dawn of the morning I have been at the railroad station and have seen the miners load into a train with their dinner pails, going out to the Peabody mines or other properties that encircle the city. Who educates the children of those miners? The citizens of Springfield. Why is not the mine paying for it? It is outside the city district, and of course the farmers out there get some benefit from the taxes levied on the mine, but they do not need it, the tax is low in the county districts in comparison with the taxes in the city districts. It is true all over our State in the strictly rural communities that in the villages are to be found the people who go out and do a large share toward making the farm lands productive. In the village live the laborers who work on the farm, and the carpenters who build the farmers' barns and the painter who paints them, the merchant who acts as his purchasing agent and who brings on the goods for him to see, and from which to make selections to meet his needs; there also lives the physician and the undertaker; all these people live in the village. If all these people, the blacksmith, the carpenter and the work-

man of every kind were not available to go out to the farm to do these odd jobs for the farmers, more people would have to live on the farms and be educated at expense of the farm land. The only income to the small community is the money that comes in from farm products that are sold, the food and clothing of the people, and all the expenses of the community, all have to be paid out of the receipts from the farm crops that are shipped out. The whole community in a large way is producing these crops, the men in the village indirectly. Is there anything more plain than this if labor makes property productive that property should be taxed for the education of the children of this labor? Isn't it evident that the whole community, village and farm alike should be taxed for the education of the children alike? The little towns they are taxing themselves to the limit, but on the farm it is 35, 40 and 50 cents on the one hundred dollars, very low as compared to the rate which obtains in towns. This thing can be equalized by a county school tax, because it would fall upon the farm lands, upon the mines, upon your tie plant and upon all industries, no matter where they are, and would be expended for the education of all the children and would equalize the local inequalities, in the common burden of taxation. We need somebody to levy that tax; I think the proper parties would be a county board of education, not to be elected in November, but to be elected when your school officers are elected in April. This county board of education will have in time other functions. If we are going to have appointive county superintendents, there would need to be a board of education to appoint him, and many other functions they would come to perform in conjunction with the county superintendent, whether appointed or elected. And here then, too, this Convention ought to remove from the Constitution a provision that is in the present Constitution, namely, that that limits county taxes as it now reads to 75 cents on the one hundred dollars. If we undertake, as the Constitution now is, to levy a county school tax, we find it impossible to do so without a referendum to the people, and it is questioned whether we would not have to take a referendum every year to justify every levy, if the Constitution is left as it is. It should be changed; our State Teachers' Association has endorsed this principle repeatedly for a large school fund to pay one-third of the teachers' salary and equal county taxes to pay another one-third of the teacher's salary and local taxes that will take care of the balance and buildings, equipment and school supplies. Now, that is the scheme of revenue to which the State Teachers' Association stands committed. Mr. Blair told you this morning we are hoping we shall have a Federal appropriation to equalize the burden among the States and that will bring the wealth of Illinois to Mississippi and Kentucky and other Southern States. In proportion to the wealth of Mississippi and Illinois, as shown in the last federal census, Mississippi to support her four months school is assessing herself two and one-half times as heavily as the State of Illinois for her vastly better schools that continue on an average of eight and 4/10 months to Mississippi's four months.

I am here to discuss the three sources of revenue that I believe proper. In regard to the three points, the waste and extravagance that has been pointed out in our Illinois school system comes from paying teachers either $75 to $80 in charge of three or four or half dozen children; it could possibly be rearrangd, by changing the boundary lines of the school districts of Illinois to double the area of the districts of Illinois without increasing the distance that the children have to walk to school, except in case of one-fourth of the children in about half the districts, and no child in the central part, at least, with districts two miles square have to walk over two miles; that should be done. We can eliminate a vast number of the highly expensive and wasteful small schools. That ought to be done, and if we get better roads we will have consolidation and much better schools.

Now, with regard to another question, the waste of administration. We have, as you know, the sixteen section funds in every township; these sixteen sections were sold out early at a very small price, and in many cases the money has been lost through bad loans; the total income outside of Cook county, where there are four blocks of land still yielding enormous

rentals, part of the loop district, a few other plats of the original sixteen sections of the State, about one dozen are left; the land has passed into private ownership long ago, and these little funds do not average more than three or four thousand. The school treasurer takes care of it and usually his salary absorbs the interest on the fund; as a matter of fact, it takes two-thirds of the income from the schooi fund to pay the salary of the township treasurers and the township treasurers do not do their work anything like so well as it would be done if this was done by the county treasurer. They do not keep their books right; it is a matter that is turned over to the banks, and I wish it were possible to have a legislature in Illinois that was powerful enough to rise above the influence of the country banks with whom the township treasurers do business, and save this loss to the school fund by putting this matter into the hands of the county treasurer.

Those are the points with regard to school revenues in Illinois; I have not discussed just what form of taxes you should use, but I do believe that wise statesmanship in education in Illinois in properly distributing the burdens of education and in securing ample school funds will provide liberal state school tax paying one-third of the teacher's salary on the average, distributed where the children are, a county tax, and finally a local tax that will cover besides operating the buildings and repairs and expenses the other third of the teacher's salary. That is all. (Applause.)

Mr. SUTHERLAND (Cook). I am sure we have all enjoyed Professor Felmley's talk. I have a number of questions which with his consent I would like to ask him, and I have no doubt that other delegates have questions which they would like to ask, because his discourse has been provocative of thought, but the hour is late, and I move that we adjourn until eight o'clock.

(Motion prevailed.)

Whereupon the Committee of the Whole took a recess until eight o'clock p. m., Wednesday, March 10, 1920.

8:00 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to adjournment.

Chairman Gale presiding.

CHAIRMAN GALE. The committee will please come to order. The reporters have complained over their inability to get the names of the delegates who do the questioning, and therefore the delegates before asking any question will address the Chair and be recognized in order that their names may be properly in the record, and that there shall be no questioning of the speaker direct from the floor until the floor has been first secured by recognition from the Chair.

I want to once more suggest to you that when these proposals come before the Convention in Committee of the Whole for final adoption there will be opportunity that any member wishes for debate, and as a matter of deference to the speakers and of consideration for the committee who have to sit here such long hours, I am requested by a number of the members of this committee to say that the committee does not care for nor will it listen to debate on this proposition from members on the floor tonight. We are here to listen to the speakers and any questions that may be asked of them.

Mr. SUTHERLAND (Cook). I have listened with great interest to your very interesting and able presentation and survey of the general revenue situation as it now applies to the schools of Illinois. As I understand your suggestions, they were rather to the effect that the suggested changes were legislative in character and that you were placing them before us largely so we could get the picture and see what was needed. Was that in general your suggestion?

Mr. FELMLEY. I think it was, except in speaking of the difficulty of levying county tax without removing the constitutional limitation.

Mr. SUTHERLAND (Cook). With reference to the general object of taxation, which question was raised when Superintendent Blair was speak-

ing this morning, I understood Superintendent Blair to say that you, and I believe he said Mr. Moore, had prepared this platform as to revenue which is placed before us in printed form by the Illinois State Teachers Association. Was he correct in making that statement?

Mr. FELMLEY. I was a member of the committee to whom these resolutions were presented, and as a member of the committee I favored the resolutions and voted on their report. The resolutions were prepared by Mr. Moore, and in connection with the rest of the committee I endorsed the resolutions.

Mr. SUTHERLAND (Cook). Now, my attention is arrested especially at sub-sections C, D and E in number 3 which appear on the last page of this little folder, which reads as follows:

"(c) The unearned increment of land values, which, after all, is really earned by the labor and productive power of the whole community and should be taken in taxes to support community institutions;

"(d) Any socially created increase in the value of natural resources;

"(e) Any part of our natural resources held out of use for gain or speculative purposes."

Now, would "(e) Any part of our natural resources held out of use for gain or speculative purposes," include or not include land held out of use?

Mr. FELMLEY. I think it would include land, it would include any natural resources held out of use without some effort to improve, develop and use them.

Mr. SUTHERLAND (Cook). The reason those attracted my attention particularly were because they were quite suggestive to me of the single tax idea; are you in favor of the single tax idea?

Mr. FELMLEY. I will answer that question if you will let me define it. If by the single tax you mean the theory presented by Henry George, in which he undertakes to say in his Progress and Poverty, and other writings, that if the unearned increment of land value that is created by the social growth of the community, were taken for public purposes would be ample and therefore no other tax would be sufficient. I reply that I believe in the single tax. Henry George never called it that but Mr. Sherman of New York called it that; if you ask me if I believe in the single tax now for Illinois, I would say I think we should raise more of our revenue from unearned increment, and I would like to say that I had an experience at Normal two years ago—the State built for the young women a dormitory that housed 85 girls. The rooms in the dormitory are not all equally desirable, some front the campus, they are on the east side of the building, they are cool in the afternoon and altogether more desirable rooms than the others in the rear of the building; some have two windows, others have only one. We were told that the girls must pay enough in room rent to pay for the fuel, to pay for the light, pay the repairs and the upkeep and pay for the service, and we figured on the best plan to do that, whether to charge a flat rate to all of the girls, or to charge the girls who occupied the best rooms a higher rate, and say to them, "Here is a room at four dollars, here is a room for three-fifty, here is one for three, and two-fifty." We scaled the rooms, the idea being that the girls who occupied the best should pay more towards the upkeep, the fuel, light and the service that all enjoyed in common. Here we are tenants of this planet, we are all tenants on this earth; there are some of us that have the best rooms, better land than others, better sites in the cities to carry on our business, better corner lots to build on; I think the people who have the corner lots, the best land and so on ought to pay to the public and government for the superior advantages that they enjoy as tenants of this planet under the protection of the laws; I believe in equal rights for all and special privileges for none, and the people who enjoy the natural advantages in this respect, that is, the resources that are mentioned as the gift of nature are the ones who should pay the largest burden of the public upkeep of public expenditures. In this State, with values that have accumulated as they have with all of the manifold interests that have become established, I should not be in favor of a single tax in this State now, but I think when Oklahoma was opened the government should

have instituted it there, and we should not have had that crowd of sooners in Kansas, but held them up right at the frontier and they should have been permitted to go in and the man who got the corner lots of the city and those who secured the better land should have had to pay more. I think if we could have started in long ago, but we did not, we are not ready for it, yet I look forward as all good people do to that time that is coming when justice shall reign on earth and then I think the single tax will prevail.

Mr. DUNLAP (Champaign). Don't you think the man who makes his living from other sources than land, that he should pay a part of the government expenses as well as the land itself?

Mr. FELMLEY. I think a man should contribute to the public treasury in proportion to the advantages he enjoys from the common provision, I believe that.

Mr. SUTHERLAND (Cook). That would not be a single land tax?

Mr. FELMLEY. Not necessarily. I am not here to defend the single land tax; all we say in our resolutions is that we believe more revenue should be raised from this source; not all, but more; if you read that resolution, that number 3, we ask for three things.

First, Classification of property, tangible and intangible, with the idea if property is classified we can raise more revenue from property that is not yielding any revenue now. Second, Income and inheritance taxes. They are used in other states, and especially in our neighboring state of Wisconsin, and third, we suggest that since our natural resources are the gift of nature to the race and are the real source of all wealth, and therefore the natural and original source of public revenue, provision should be made to collect more revenue from them. We simply indicate here three kinds of taxes that are used in some States successfully.

Mr. SUTHERLAND (Cook). The unearned increment tax, is that the tax that is sometimes known as the land value tax?

Mr. FELMLEY. I think it is.

Mr. SUTHERLAND (Cook). That is not the tax?

Mr. FELMLEY. We separate what might be called the site value of the land, of the natural value of the land from the value that has been given to it by the improvements put upon it by the owner; that is the land value as distinguished from the improved value.

Mr. SUTHERLAND (Cook). Your land value, according to your theory, was given to it by the community?

Mr. FELMLEY. Yes, by social growth.

Mr. SUTHERLAND (Cook). The site value is its value which flows out of the improvements the owner has placed on it?

Mr. FELMLEY. Yes. It naturally would involve the nature of land titles because the improvements are there, and the person who held title to the land still held the title to the improvements which would be untaxed.

Mr. SUTHERLAND (Cook). He would hold it by leasehold rather than by fee simple.

Mr. FELMLEY. It is just as it is today, he holds it today on the condition that he pays the taxes, it would be the same here as well, there would be no difference in that respect.

Mr. SUTHERLAND (Cook). The unearned increment theory is the essence of the single tax doctrine.

Mr. FELMLEY. I think it is, because it is held by those who use that phrase, single tax, that if we tax the unearned increment to the limit; and it ought to be taxed first—it would afford enough revenue for all public purposes.

Mr. SUTHERLAND (Cook). There is a theory that if a man buys a farm at $20 an acre and sells it at $500 an acre, there is a theory of taxation which would confiscate the whole profit of that transaction; that is sometimes called an unearned increment tax, is it not.

Mr. FELMLEY. I do not know practically of the application of that.

Mr. SUTHERLAND (Cook). I don't think it has been applied, it is pure theory. You said that you did not believe that the single tax, as it is called, is practicable in Illinois now. You know of the Fels Fund Com-

mission which was in operation a few years ago, and I believe has been superseded by the National Single Tax League?

Mr. FELMLEY. I have heard of it, but I do not know much of the work.

Mr. SUTHERLAND (Cook). On a list of the contributors which I have here I find published in 1911 there appears the name David Felmley, and I wondered if you had any connection with that fund or not?

Mr. FELMLEY. They were raising a fund for Oregon when I contributed to this fund you mention.

Mr. SUTHERLAND (Cook). You contributed for the work in Oregon, and not Illinois?

Mr. FELMLEY. They wanted to make a test case in Oregon, and that was a new state, and it was believed if it was possible to get that scheme established in a new state its advantages could be shown to the world.

Mr. SUTHERLAND (Cook). I thank you.

Mr. KERRICK (McLean). Professor Felmley, may I ask you a few questions?

Mr. FELMLEY. Why, certainly.

Mr. KERRICK (McLean). First, I would like to get a better understanding of what I understood you to say concerning laborers who go out from Springfield, for instance to some coal mines outside of the limits of Springfield's population, and who reside in Springfield and come back home from their labor, who live in Springfield and pay taxes in Springfield; if I understand you correctly on that your idea is that because that labor was performed in territory outside of Springfield, that by some means Springfield should be able to collect taxes from a district where these men worked; am I right?

Mr. FELMLEY. I don't know as I put it in just that form, but I think if those men by their labor make productive certain mining properties outside of the Springfield school district, that this mining property should help pay the educational expenses of these miners.

Mr. KERRICK (McLean). Isn't it your idea that because these men worked there and their children went to school and they lived in Springfield, that Springfield was entitled to some compensation by taxation or otherwise, because of the fact that they helped to work property in the other territory?

Mr. FELMLEY. What I proposed was, that there should be a county tax.

Mr. KERRICK (McLean). But for the purpose of bringing about the result I have mentioned, that is to say, subject in some degree the neighborhood where the coal shafts were situated, to pay a part of the school tax in Springfield by county taxation or otherwise, that was the argument, was it not?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Then I understand you correctly. Upon what theory do these men who simply earn their wages there and come back and spend it in Springfield, pay taxes on their homes, if they have any, or put their earnings in the bank, if they save enough to be taxed, upon what theory can the taxes be collected in some way in the district in which coal shaft was situated be compelled to pay the expenses of schools in Springfield?

Mr. FELMLEY. These properties out here are evidently worth a great deal, let us say $200,000; that mine would not be worth $200,000 if it would not pay an income equal to a good rate of interest on $200,000; now, in order to pay dividends on $200,000 worth of stock or interest on bonds or whatever is the form the ownership takes, it is necessary that the coal that these men take for a great deal more than the wages that are paid them. Do I make myself clear on that?

Mr. KERRICK (McLean). That is in the ordinary course of business, it should pay the usual profit for conducting an enterprise of that kind.

Mr. FELMLEY. It should pay a profit, and no doubt there are coal properties paying a larger profit, because they pay a light school tax.

Mr. KERRICK (McLean). Of course that mining company paid the wages of these men.

Mr. FELMLEY. Yes, they paid to the men a part of the value of the coal taken out.

Mr. KERRICK (McLean). Is it because you do not think they paid as much wages as they should that they should contribute to Springfield the difference between the wages they ought to pay and the wages that they did pay?

Mr. FELMLEY. I think we should expect people who work in the mine to live around the mouth of the mine, and if they had a school house out there then the coal mine would have to pay taxes for the education of those children who are living around the mouth of the mine or in the village. Instead of living out there these miners live in town, a mile or two or three away from the mine and the mine escapes paying taxes for the education of these children because of the place of their residence.

Mr. KERRICK (McLean). Of what children?

Mr. FELMLEY. The children of the miners, if they do not live around the mine mouth.

Mr. KERRICK (McLean). It pays taxes for the education of the people located in the same district it is in.

Mr. FELMLEY. Yes, what few are there.

Mr. KERRICK (McLean). I understand your answer; we are talking about ordinary farms, not near a city or near a village; it is true that a considerable part of the farm labor now is performed by men who reside in villages and who own their own little homes. They go out to husk corn or help harvest or something of that kind on the farm and they are paid wages, and I might say pretty good wages; they go back to the village, they support schools there with their earnings, they spend their money they have earned on the farm in the stores and other places of business there, and that being the case, do you think the farm, in addition to the wages paid these men, all they ask, ought to contribute something to the adjacent village because these men were given work on the farm?

Mr. FELMLEY. Yes, I do.

Mr. KERRICK (McLean). So that is your theory.

Mr. FELMLEY. Yes, let me explain. Suppose we had private schools and not public schools; suppose every parent was compelled to pay for the education of his children; suppose the living expenses of these laborers included not only what they paid to the grocer, the dry goods man, the man who owns their house, but included the schooling of their children; wouldn't the farmers have to pay more wages to these men?

Mr. KERRICK (McLean). I think not, they are paying the limit now.

Mr. FELMLEY. They are paying in competition with labor everywhere, and if we put upon labor the expense of educating their children, you will pay it in wages if not taxes.

Mr. KERRICK (McLean). Suppose the farmer does not have any children in school, or no children at all, he pays school taxes just the same?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Now you are president, are you not, of the State Normal University at Normal, Illinois?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). And have been how many years?

Mr. FELMLEY. Nearly 20.

Mr. KERRICK (McLean). What are the functions of that institution?

Mr. FELMLEY. To train teachers for the public schools of Illinois.

Mr. KERRICK (McLean). It is supported in whole or in part by taxes on the people of Illinois?

Mr. FELMLEY. Almost entirely.

Mr. KERRICK (McLean). How much was provided by the last legislature of Illinois for that school?

Mr. FELMLEY. A little over $400,000 for the biennium.

Mr. KERRICK (McLean). It is a school for training teachers, is it not?

Mr. FELMLEY. Yes.

Mr. KERRICK (McLean). What office do you hold in the Illinois Teachers Association?

Mr. FELMLEY. I hold no office in the Illinois Teachers Association except I have been a member on a committee.

Mr. KERRICK (McLean). What is the standing of that organization, does it comprise all the teachers of the State of Illinois?

Mr. FELMLEY. I cannot give you the exact membership, but I think at the present time there are 20,000 teachers who are members.

Mr. KERRICK (McLean). They were represented, were they not, in a meeting held in this city on the 30th of December, last?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). You were present?

Mr. FELMLEY. Yes, I was one of the delegates from what is called the central division.

Mr. KERRICK (McLean). At that meeting certain resolutions were adopted which were distributed among the members of this Convention?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). And which constitute the wishes and the opinions of the Teachers Association of Illinois concerning modes of raising revenue?

Mr. FELMLEY. Suggestions, yes.

Mr. KERRICK (McLean). A committee on resolutions was appointed, was it not?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Were you a member of that committee?

Mr. FELMLEY. No, sir.

Mr. KERRICK (McLean). You were present in the meeting?

Mr. FELMLEY. A committee was appointed, a committee on the Constitutional Convention, and was asked to make a report of the needs that we should like to lay before this Convention. That report was adopted.

Mr. KERRICK (McLean). And it was that committee which reported the resolutions which we have here present?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Did you write those resolutions?

Mr. FELMLEY. No, sir, I voted for them and supported them; I am just as much responsible for them as if I wrote them.

Mr. KERRICK (McLean). Now, Mr. Felmley, you say you are not now in favor of a single tax, as generally understood?

Mr. FELMLEY. No, I didn't say that, I am in favor of the single tax, but not for immediate adoption in Illinois, but as the ideal system of taxation. I am in favor of it now, but not of the single tax now.

Mr. KERRICK (McLean). You would be in favor of it in other states not like Illinois?

Mr. FELMLEY. I would be in favor of it in a new country like Oklahoma was 15 or 20 years ago.

Mr. KERRICK (McLean). How long has it been since you ceased to be without qualifications a single taxer?

Mr. FELMLEY. I have been for more than thirty years, the same kind as I am now.

Mr. KERRICK (McLean). Did you not up to not longer than eighteen months ago avow yourself in favor of the single tax as a means of raising revenue in Illinois or anywhere else? Wasn't that your belief in your condition not longer than eighteen months ago?

Mr. FELMLEY. No, sir; it has never been my belief we should adopt a single tax immediately in any old settled community, but as in England and New Zealand adopt it by degrees.

Mr. KERRICK (McLean). You believe in arriving at it by a gradual process here and everywhere in Illinois?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Just as fast as ever you can do it?

Mr. FELMLEY. Just as fast as the people can be led to see the justice and the equity of the single tax and as far as they can see it will abolish inequalities of taxation, which it will.

Mr. KERRICK (McLean). Just as fast as your propaganda can do its perfect work?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). You are a member of a single tax organization in this state and in the Nation?

Mr. FELMLEY. No, I am not a member of any single tax organization.

Mr. KERRICK (McLean). Then anyone of those organizations that claim you are a member is mistaken.

Mr. FELMLY. I have contributed to some single tax movements, but I am not a member of any organization.

Mr. KERRICK (McLean). That is a distinction without much difference.

Mr. FELMLEY. I don't know, I know gentlemen who contribute to the church without being a member, they are outside pillars of the church. (Laughter.) That is my relation to single tax. If there was an organization near where I live I probably should be a member.

Mr. KERRICK (McLean). You liken the single tax unto the church. Here is note B on the second page:

"The principle of eminent domain might be extended to provide that the State give deed, title and possession to any property to any citizen who will pay the present owner say ten or twenty per cent more for it than the owner lists it at on his latest assessment schedule."

Mr. FELMLY. I do not think whether it be ten or twenty per cent affects the principle, the idea is that every man should assess his own property.

Mr. KERRICK (McLean). Does that apply to anything but land?

Mr. FELMLY. Only applies to visible property.

Mr. KERRICK (McLean). Now, suppose I got scared about having to pay taxes on my land, suppose it was worth $10,000 and I sold it for $10,000, then I need not be scared about telling the assessor after I had parted with it that it was not worth more than ten dollars?

Mr. FELMLY. If you have sold the property you would no longer be assessed upon it, it would belong to somebody else.

Mr. KERRICK (McLean). You mean there should be no personal property assessed?

Mr. FELMLY. I didn't say that at all.

Mr. KERRICK (McLean). Do I get out of trouble after I get the $10,000, and when the assessor came around and asked me how much property I had and I told him ten dollars, could you go after my bonds and sell them?

Mr. FELMLEY. This is the principle of eminent domain.

Mr. KERRICK (McLean). Eminent domain applies to land and land only?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). And you meant it to apply to land only when you applied that penalty.

Mr. FELMLEY. Land and its improvements.

Mr. KERRICK (McLean). There would be no taxes on anything but land?

Mr. FELMLEY. No, sir; not necessarily.

Mr. KERRICK (McLean). Then what do you mean?

Mr. FELMLEY. This is one of many propositions that we wished to bring to the attention of this Convention, because they have been used in other states and other countries as a means of securing revenue. If there is anything notorious in this State it is the way that lands are assessed. I am to pay next week $112 in taxes on my home, but if I owned a piece of land of three times that value I would not pay nearly so much; land that is selling for $400 an acre in McLean county is valued at $90 an acre, and that is put on the assessors' books at $45 an acre.

Mr. DUNLAP (Champaign) Don't you get lots of privileges with that?

Mr. FELMLEY. Yes; but the houses and lots are assessed at about 70 per cent of their selling value.

Mr. DUNLAP (Champaign). You have a higher rate of taxes?

Mr. FELMLEY. Yes, sir, because we have a lot of things in town that the farmers do not have. When farm lands in McLean county are assessed, there is put down in the last column the assessed valuation; this year it is about 45 to 50 dollars an acre; those lands are selling, some of them, at $500 an acre; town property is assessed at about 70 per cent of its actual selling value, while farm property is being valued by the assessor at from 20 to 30 per cent of its selling value. That is what is going on in McLean county.

Mr. KERRICK (McLean). Do you say that land is assessed at 40 to 50 dollars an acre in McLean?

Mr. FELMLEY. In the last column of the valuation put on by the assessor.

Mr. KERRICK (McLean). Isn't it assessed at $100 to $125?

Mr. FELMLEY. Not in the last column. The great bulk of the land in McLean county is not valued over $100 an acre.

Mr. KERRICK (McLean). Isn't it a fact that real estate in McLean county pays between 80 and 90 per cent of all taxes paid in the county?

Mr. FELMLEY. I do not know.

Mr. KERRICK (McLean). Well, that is a fact. Isn't it a fact also that four million dollars of mortgages have been placed on McLean county records, more than that now, up to some months ago, I think about two millions more; isn't it also true there as elsewhere, in Chicago and Gary and all over that mortgages are being made to the beneficiary, but to a trustee for an unnamed beneficiary, and those mortgages are escaping taxation?

Mr. FELMLEY. I understand that is true, and that is one of the reasons we want a classification of property; we would classify notes with mortgages secured and we would put a tax on them when they were recorded, a good big tax right then and there. One half of one per cent, five dollars on the thousand, the amount of that tax—I was thinking of a five year mortgage.

Mr. KERRICK (McLean). It would be a little premium paid for exemption; don't you think they should be made to pay taxes?

Mr. FELMLEY. If there is any way to do it.

Mr. KERRICK (McLean). Did this ever suggest itself to your mind, that if the legislature of the State in a little statute not ten lines long should provide that no mortgage should be entitled to record that did not upon its face disclose the name of the beneficiary, don't you think that would enable us to find the owner?

Mr. FELMLEY. They tried something of that kind in Kansas; I know in Illinois for the last forty or fifty years, and it was true when you were in the Senate, and today, farmers are trying to find some way to compel the taxation of mortgages, holders of intangible property of that sort.

Mr. KERRICK (McLean). Holders of intangible property are trying to avoid it.

Mr. FELMLEY. Forty-five years ago Governor Oglesby appointed a tax commission and they investigated the workings of our uniform tax law under the Constitution of 1870 and they said that the Illinois tax system is a school of perjury promoted by the law, and what we suggest is there is probably some better way to get a system of taxes that will not be a school of perjury promoted by law.

Mr. KERRICK (McLean). The Federal government is finding a good way.

Mr. FELMLEY. They are working with incomes.

Mr. KERRICK (McLean). They know the source when you have made out those schedules.

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). They knew the source, they knew the value behind them, they learned the source of the income and they can tax it by valuation.

Mr. FELMLEY. In some cases they do, sometimes they do not.

Mr. KERRICK (McLean). They secured 400 million dollars from incomes this last year, a large part coming from property that never paid taxes before.

"Provisions should be made for graduated inheritance and income taxes, with the heavier burdens on the larger inheritances and on unearned incomes."

What is that?

Mr. FELMLEY It is income that comes through no labor or productive energy exerted by the owner.

Mr. KERRICK (McLean). That would be an exact description of a mortgage.

Mr. FELMLEY. The owner has in the past, we may presume produced the principal sum.

Mr. KERRICK (McLean). It may have been that his ancestors produced it.

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Now, you recommended to the members of this Convention all these propositions, all of them or any of them?

Mr. FELMLEY. We favor them.

Mr. KERRICK (McLean). All equally good?

Mr. FELMLEY. No, they are all good. They have been tried in some places and have produced additional revenue; every one of them is in use in civilized countries in the world today.

Mr. KERRICK (McLean). Every one of them has been tried?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Where has this unearned increment plan been tried?

Mr. FELMLEY. That plan of taxation exists in several of the Canadian cities of the Canadian northwest, Calgary, Vancouver and other cities of that region.

Mr. KERRICK (McLean). And they have abandoned that in part.

Mr. FELMLEY. The tax is levied upon land.

Mr. KERRICK (McLean). Isn't it a fact that they abandoned that means of raising revenue and resorted to the old fashioned way of taxation by valuation?

Mr. FELMLEY. Not to my knowledge.

Mr. KERRICK (McLean). The single taxers are trying to explain how that happened, saying it is a put-up job.

Mr. FELMLEY. I have seen such literature.

Mr. KERRICK (McLean). About when did you buy some land down in Missouri?

Mr. FELMLEY. I think you are wandering somewhat afield, but I bought some land in Missouri in the summer of 1916.

Mr. KERRICK (McLean). You have been down there and pulled out some stumps from that land?

Mr. FELMLEY. I cleared off the land down to the stumps.

Mr. KERRICK (McLean). And made some ditches?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). And otherwise improved the land that needed improvement before becoming productive?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Did I understand you to say that you are not in favor of single tax?

Mr. FELMLEY. No, I should have voted for it in Missouri, had I been a citizen of Missouri I should have voted for it.

Mr. KERRICK (McLean). I thought you distinguished where a man pulled some stumps and dug a ditch——

Mr. FELMLEY. According to the single tax theory, whatever a man puts on the land in the way of improvements, anything that is necessary to make a farm of it, that is in the nature of improvements just as much as the fence.

Mr. KERRICK (McLean). I understand that.

Mr. FELMLEY. That would not be the subject of taxation as an unearned increment.

Mr. KERRICK (McLean). Isn't it a fact that for nearly forty years and a considerable time before you became president of the Illinois Normal University and during all the time until very recently you have been known as an outspoken single tax propagandist, isn't it what you are understood to be in that community?

Mr. FELMLEY. I really do not know.

Mr. KERRICK (McLean). Haven't you discussed in debates the question of single tax twenty years ago?

Mr. FELMLEY. Doctor Taylor put me on for debate against your brother twenty-six years ago.

Mr. KERRICK (McLean). And weren't you an absolute believer in it then?

Mr. FELMLEY. The same as I am now.

Mr. KERRICK (McLean). Didn't you believe it was the only right way to tax?

Mr. FELMLEY. I believe today that it is the ideal way of taxation, because it is the only true and just method of taxation.

Mr. KERRICK (McLean). Not more than three years ago after we had been discussing certain things, didn't you put your arm around my neck and say that you didn't see anything wrong about single tax?

Mr. FELMLEY. I say so today.

Mr. KERRICK (McLean). Haven't we at different times debated and discussed with you the single tax proposition and you took without any qualification the side of single tax?

Mr. FELMLEY. I discussed the question only once in Bloomington.

Mr. KERRICK (McLean). Haven't you organized debates or known of them in your college in which the single tax question was the subject of debate?

Mr. FELMLEY. I never organized a debate in which the single tax was the subject under discussion.

Mr. KERRICK (McLean). Haven't you known of them and directed young men who had the affirmative of the question about where they could get their material for the debates?

Mr. FELMLEY. I don't think I have; I have no doubt it has been debated because our young men debate on all kinds of questions.

Mr. KERRICK (McLean). It is not an unusual thing to have single tax debates out there?

Mr. FELMLEY. I think they have everywhere.

Mr. KERRICK (McLean). You have a number of professors who hold single tax theories, have you not?

Mr. FELMLEY. I do not know.

Mr. KERRICK (McLean). It is your present belief that it is not best to try the single tax theory in Illinois?

Mr. FELMLEY. I do not think it is best to establish single tax in Illinois now.

Mr. KERRICK. (McLean). In 1916 there was a constitutional amendment voted upon by the people of the State of Illinois which in terms said that if they adopted section 1 of article 9, sections 3 and 4, I think, the only important thing is section 1—shall be as if it never existed, you remember that?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). You voted for it.

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). You commended it in the literature which was circularized to induce people to vote for it?

Mr. FELMLEY. I do not remember any particulars; if anybody asked me about it I told them about it.

Mr. KERRICK (McLean). And this was circulated through the Civic Federation of Chicago in pamphlet form?

Mr. FELMLEY. I do not remember, it might have been.

Mr. KERRICK (McLean). And that knocked down the fence, tore out the gate, leaving a real gateway for the real single tax to be made a real law of this State if it had succeeded?

Mr. FELMLEY. It would be possible for the legislature——

Mr. KERRICK (McLean). But it knocked down the fence——

CHAIRMAN GALE. Please allow him to finish his answer.

Mr. KERRICK (McLean). I think I have a right to ask for a categorical answer.

CHAIRMAN GALE. Both of you are talking at the same time, the stenographer cannot possibly get these debates correctly if you insist on talking at the same time.

Mr. FELMLEY. The question is whether or not this amendment if adopted would have paved the way in the legislature for the single tax?

Mr. KERRICK (McLean). Yes.

Mr. FELMLEY. As I understand it, if that had been adopted it would have been permissible for the legislature to permit that land be assessed separate from the improvements of the land; it would be possible to have a different rate of taxation for improvements. In the City of Pittsburg land and improvements have been separated for purposes of taxation, and beginning three years ago they had the same rate of taxation for both land and improvements; the next year the improvement tax was lowered ten per cent, the next year another ten per cent, the next year another ten per cent and so on until the improvements will be taxed half as heavy as the land; taxes always tend to destroy the thing that is taxed if it can be administered; tax building and you discourage building, tax the processes of manufacture and you burden them and the raise of prices of the manufacturer gets to the purchaser; whenever a tax is laid on the materials of production, the implements of production and the process of production and trade it is always shifted to the customer, and it tends to diminish production; a tax on land does not work that way.

Mr. KERRICK (McLean). If section 1 of article 9 does not so change the one paragraph in the present Constitution what is there to prevent the legislature from putting a tax on lands, is there any other bar if that is taken out of the Constitution?

Mr. FELMLEY. I think that is the only tax provision in the Constitution, without it the legislature would be——

Mr. KERRICK (McLean). Without it the legislature could do as it pleased?

Mr. FELMLEY. May I have a chance to answer the question?

CHAIRMAN GALE. Yes, answer the question.

Mr. KERRICK (McLean). If that was not existant the legislature could do exactly as it pleased about what it would tax and what it would not?

Mr. FELMLEY. The legislatures of our states can do anything whatever unless prevented by the Constitution of our State or of the United States.

Mr. KERRICK (McLean). Section 1 of the present Constitution is the only thing which prevents them from putting a tax on anything they please or leave it off?

Mr. FELMLEY. Yes, sir.

Mr. KERRICK (McLean). Do you remember a discussion that was carried on in the Prairie Farmer in 1916 relative to that amendment in which Harrison B. Riley of Chicago plainly admitted in so many words in this language:

"Mr. Kerrick is undoubtedly right in this claim that under this amendment, if adopted, all personal property could be exempted from taxation and that is the very purpose of the amendment."

Do you remember reading that?

Mr. FELMLY. I do not remember reading that Prairie Farmer article, but some article, I think they were reprinted in the Bloomington Bulletin.

Mr. SUTHERLAND (Cook). Did that amendment as you recall it apply fully to all classes of property or only to personal property?

Mr. FELMLEY. I think it related to personal property only, but I am not sure.

Mr. FIFER (McLean). Now, doctor, I understand you to say you would tax land according to its value?

Mr. FELMLEY. According to its value without the improvements.

Mr. FIFER (McLean). Without the improvements; that is, if two neighbors, one having 160 acres of land where the land alone was worth $100 an acre, and the other neighbor's land was worth $50, that you would tax the land according to its value?

This farm is worth $50 an acre and the other is worth $100——

Mr. FIFER (McLean). I want to amend my question: You would tax in that case the improvements on the land?

Mr. FELMLEY. So far as I am concerned now I would gradually untax the improvements, as they are doing in Pittsburg.

Mr. FIFER (McLean). What do you mean by gradually untaxing the improvements?

Mr. FELMLEY. For example, if we assess the land $16,000, and these improvements are worth $8,000, there is $24,0000; this year we will assess them both at the same figure; next year we will assess the land at 16 and assess the improvements at 90 per cent; the next year the improvements at 80 per cent on the $8,000 and so on.

Mr. FIFER (McLean). Then you would gradually drop out the improvements entirely, wouldn't you?

Mr. FELMLEY. I don't know that I would drop the improvements out entirely in my lifetime, but ultimately I would say yes.

Mr. FIFER (McLean). The Henry George theory of taxation is to tax the land alone and leave the improvements untaxed, isn't it?

Mr. FELMLEY. Yes, that is his theory.

Mr. FIFER (McLean). So therefore you are a Henry George single taxer?

Mr. FELMLEY. I believe in the Henry George theory so far as it relates to this unearned increment on land to the extent of recognizing the equity and justice and the righteousness of that principle.

Mr. FIFER (McLean). You believe, then, in the Henry George single tax and would try to introduce it if this was a new state, and it was an original proposition?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). So you do believe in the Henry George single tax?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). You spoke about the natural resources, what do you mean?

Mr. FELMLEY. Natural resources are those of the soil, forests, ore deposits, water power and other things of the earth, they are the materials that are to be found in the land and surface of the globe that men may use for the production of wealth; for example, the immense ore deposits in Northern Minnesota is a natural resource.

Mr. FIFER (McLean). You would include land as a natural resource?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). You have said here that the unearned increment of land values, which after all is really earned by the labor and productive power of the whole community, and should be taken as taxes to support the community institutions. Now, what do you mean by unearned increments?

Mr. FELMLEY. May I explain?

Mr. FIFER (McLean). Yes, surely.

Mr. FELMLEY. I will tell you what I understand by that, and give you one or two examples of it. In 1847——

Mr. FIFER (McLean). Make it as brief as possible.

Mr. FELMLEY. If I undertake to answer the question I must be permitted to answer it without interruption, I trust.

In 1847 when the Illinois regiments that had served in the Mexican war under General Taylor landed at Cairo they were given land warrants which gave them 160 acres of Illinois land anywhere they might choose to enter it on Government lands. There was a young Englishman there by the name of Scully who bought up those land warrants from such soldiers as were willing to sell at eighty cents an acre, and he went up here in Logan county, up around north and west of Lincoln, and he located some thirty thousand in that county, and about ten thousand more up in the vicinity of Gardner in Grundy, some little in Ford. Scully went to London and he waited. After a while American citizens wanted to use this land, they were crowding in all around his land in Logan county and they wanted to use it, and they said we will give you so much for the privilege of using the land for corn, and Scully was all the time living in London; he never built a building, he never erected a fence, he never laid a drain, he never dug a well, but these American citizens were on this land and ditched the land; he might have been asleep; he lived in London and his land gradually increased in value; of late he has spent something in improvements, but all that increase in value has not been due to the efforts of Lord Scully; he has simply stayed in England and he has found himself a rich man; he would not be rich if people had not crowded into Illinois, his land would still be worth only the eighty cents which he paid for it. The people have developed Illinois and his lands have gradually risen in value until he has become a multi-millionaire through the efforts of the Illinois people. That is unearned increment.

Mr. FIFER (McLean). Please be kind enough not to make a speech every time I ask you a question. Your position is that it was the population that added value to the Scully land?

Mr. FELMLEY. Yes, social growth.

Mr. FIFER (McLean). And Scully had no right to that?

Mr. FELMLEY. The population which created that are the people who had the right to it.

Mr. FIFER (McLean). That Scully had no right or title to that land?

Mr. FELMLEY. Title is a legal term, he had no right.

Mr. FIFER (McLean). That Mr. Scully has no title to the increase, the natural increased value of that land, is that your position?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). And it ought to be taken for taxation?

Mr. FELMLEY. The people who created that value should have it for the public use.

Mr. FIFER (McLean). And this increase in unearned increment should be swiped off and put into the treasury to educate children of this country?

Mr. FELMLEY. Yes. Build roads and other things.

Mr. FIFER (McLean). You are acquainted with Isaac Funk, that came in 1828 to McLean county, by reputation?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). He was a cattle man who secured some 12 or 15,000 acres of land in our county?

Mr. FELMLEY. I heard so.

Mr. FIFER (McLean). He got a great deal of it for $1.25 an acre, and some he paid seven and eight and ten dollars for.

Mr. FELMLEY. I don't know.

Mr. FIFER (McLean). That is a fact. Now, he left nine children, didn't he?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). They are all dead and the land is now in the hands of his grandchildren; that land has been made valuable by the population that has settled in that county and in this State, has'nt it?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). That is unearned increment?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). And you would take that unearned increment, swipe it out and put it into the treasury of the state to educate children, wouldn't you?

Mr. FELMLEY. Just so far as the values of that land were not created by the labor of Isaac Funk and his sons and grandsons.

Mr. FIFER (McLean). You would allow the improvements but the natural increase belongs to the public, and you would take it away from the descendants of Isaac Funk who came in there and drove out the deer and the wolf and laid the magnificent civilization that surrounds us in that county today, would you?

Mr. FELMLEY. I do not see any reason why Isaac Funk and his descendants should be entitled to the unearned increment produced by a social growth any more than it belongs to the descendants of all the other people that came there years ago when they laid out Bloomington and in all the years since.

Mr. FIFER (McLean). Will you explain the difference in your position which you are assuming now and the Henry George single tax?

Mr. FELMLEY. I do not think there is any difference.

Mr. FIFER (McLean). And he is the most radical single taxer in the country, isn't he?

Mr. FELMLEY. Henry George?

Mr. FIFER (McLean). Yes.

Mr. FELMLEY. He has been dead a long time. (Laughter.)

Mr. FIFER (McLean). You think the farmers of McLean county are not paying a just proportion of the taxes of the county, do you?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). You think their land is assessed too low?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). Don't you know as a matter of facts from the books that the farm lands and real estate in McLean county has been paying eighty to ninety per cent of the taxes of that county?

Mr. FELMLEY. I know that McLean county is the largest county in Illinois, that it has something like 1,264 sections of land, and almost all of it first quality of land and the population of the county is about 70,000; I should not be surprised if the farmers of McLean county were paying 70 per cent of the taxes.

Mr. FIFER (McLean). That is hardly responsive to my question.

Mr. FELMLEY. I do not know the exact figures.

Mr. FIFER (McLean). You think the farmers of this State including McLean county should pay more taxes?

Mr. FELMLEY. I think under our present taxing system ,without going any further, if the provisions of article 9, section 1 referred to by Mr. Kerrick, if they were impartially and justly enforced, they would pay more taxes than they do.

Mr. FIFER (McLean). If I told you that the statistics show that the farmer for the past twenty years has not received four per cent for his investment in farm lands, what would you say to that, do you know that?

Mr. FELMLEY. I do not know that.

Mr. FIFER (McLean). If that was the fact, now, and you would take away, not tax it, but take away this unearned increment, which is the great bulk of the value, what would be left for the farmer and his investment?

Mr. FELMLEY. All that the improvements on his place have cost him——

Mr. FIFER (McLean). You would allow him what it cost him, if he entered it at $1.25 an acre?

Mr. FELMLEY. All the land values due to social growth should be taken for social purposes because it is the labor of the whole community that has produced the land values, and that is the unearned increment.

Mr. FIFER (McLean). So you think it is the population that creates the value and population ought to take it away, is that true?

Mr. FELMLEY. In a sense, yes.

Mr. FIFER (McLean). Doctor, when I was on the Interstate Commerce Commission, Mr. Hill testified before the commission, when I was a member of it, and told about the founding of his great wealth, that he took a number of run-down railroads as he put it, many of them were only streaks of rust, and he galvanized them and made a great thoroughfare of them, and then he had the audacity and the courage and the foresight to want to go to the Pacific Coast with his lines, and his directors stopped him, thought it was a foolish thing; he got a controlling interest in the stock and turned them out and put in his office boys as directors and went to the Pacific Coast with his road, with the result that when he died his estate was worth four million dollars; now, all that enterprise on his part was made by population, wasn't it, he never could have done it without population?

Mr. FELMLEY. This work of Hill's was all improvement, he was making improvements; I would not tax his improvements but I would tax the natural resources he used, the right of way, where he laid the tracks, all frontage on Puget Sound, or wherever his railroad terminated, I would tax the natural resources, but I would not tax his rolling stock.

Mr. FIFER (McLean). It was population that gave value to the Hill property just as much as population gave value to the farm lands of McLean County; now, why would you discriminate between them?

Mr. FELMLEY. If he had built a road where there was no people it would have been a bad investment, of course, we make a bad investment when we don't buy land.

Mr. FIFER (McLean). Let us go to this coal mine: The coal in the ground you would call a natural resource and as a bounty of nature?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). The people have a right to it, God Almighty put it in the ground and no man has a right to absorb it and take it all to himself?

Mr. FELMLEY. No.

Mr. FIFER (McLean). But he buys the land, finds coal in the ground and he begins to mine it and he pays men to mine it for him, pays them the regular price, a salary on which they can live, and he brings the coal to the surface and sells it; now, you say that property ought to pay taxes, do you?

Mr. FELMLEY. I think it should pay taxes, yes.

Mr. FIFER (McLean). Don't you know it should pay taxes, Doctor?

Mr. FELMLEY. I was talking to a gentleman here and he did not know whether or not they were taxing coal in the ground.

Mr. FIFER (McLean). The whole property is assessed under the law by the State Board of Equalization; if it is a partnership or the property of an individual the local assessor assesses it, that is the law. After it is assessed either by the State Board of Equalization or the local assessor you would add a little more to that because it is a natural resource, would you?

Mr. FELMLEY. I would tax these natural resources.

Mr. FIFER (McLean). Because it was a natural resource?

Mr. FELMLEY. And the land is worth more because of it.

Mr. FIFER (McLean). How would you get at it? Now, he has paid his tax along with everybody else in that community; it has been assessed and extended on the tax books, and when it is collectible he pays his taxes; you would tax a little more because it is a natural resource?

Mr. FELMLEY. If the coal in the ground was considered in making the assessment upon the land, no, I think that tax should be levied upon the coal when it is mined.

Mr. FIFER (McLean). And further, you stated you would have the farmer out in the country taxed to educate the children who lived in the cities?

Mr. FELMLEY. Yes, sir. I would have the land taxed.

Mr. FIFER (McLean). No difference if he is 20 miles out, you would do that?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). Because the men working for him live in the city and their children are there; if a man prefers to go with his wife and children from the farm to the city he has certain advantages he did not have before; he has light, sidewalks, police protection and all these things; is not that worth something to him to live in town?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). And yet you would have the farmer living twenty miles away, in addition to feeding him and making it possible for him to live in the city, you would tax him to educate the man's children in addition?

Mr. FELMLEY. Yes, sir.

Mr. FIFER (McLean). I want to congratulate you, Doctor, you have made a very entertaining and instructive statement here.

Mr. GRAY (Adams). I rise to a point of order. We were called here to hear the school men who were here to address this Convention, and we have departed from the subject; we are not called here to discuss the single tax proposition, and I should like to hear those who were to address this Convention further. (Applause.)

CHAIRMAN GALE. Those of you who have any questions to ask, kindly make them to the point on this education matter.

Mr. SCANLAN (LaSalle). On the last page of that circular you have this:

"The principle of eminent doman might be extended to provide that the State give deed, title and possession of any property to any citizen who will pay the present owner say ten or twenty per cent more for it than the owner lists it at on his latest assessment schedule."

As a matter of fact, Doctor, that is based on an ignorance of the law, and the practice of real estate assessment. As a matter of fact the law does not require and it is not the practice for the landlord to schedule real estate?

Mr. FELMLEY. No.

Mr. SCANLAN (LaSalle). The local assessor goes out and places a value on it, that is true?

Mr. FELMLEY. In New Zealand every man is asked to assess his own land and to assess his own personal property, and I understand that in Ohio something of this kind was proposed in the last Constitutional Convention, but this is one thing you may do, and we are calling them to your attention, it has been done in other civilized countries. When the assessor comes to you he will say, "What is your house and lot worth?" And you say $10,000; a man comes along and says, "I will give $12,000 for it." The government says I will give it to this man, and turn back to Mr. Scanlan $12,000 because we have asked him in his assessment to name the price at which he will sell it.

Mr. SCANLAN (LaSalle). So in addition to taking his property you would compel him to list it?

Mr. FELMLEY. We compel everybody to list it.

Mr. SCANLAN (LaSalle). The assessor is the man who places the value on it.

Mr. FELMLEY. We will change that and make every man list and value his own real property, and his own personal property.

Mr. SCANLAN (LaSalle). Now, when you do consider it, don't you know that in Illinois the owner of real estate under the law and under the practice is not compelled to list it, or did you think he listed it as personal property is listed?

Mr. FELMLEY. Let it be clearly understood that in these resolutions we are merely suggesting to the Constitutional Convention means of raising revenue that had been tried in other parts of the world. All we want is more revenue for the schools, we don't care how it comes, so it comes, and

we look to the legislature and the Constitutional Convention in its wisdom to find the best and most just methods of doing it.

Mr. SCANLAN (LaSalle). In answer to Mr. Kerrick, you said that the man who owned a farm and rented it, that the rent would be unearned? Do you mean if he never earned the money that purchased the farm?

CHAIRMAN GALE. Mr. Scanlan, there has been a point of order raised on questions of that kind.

Mr. SCANLAN (LaSalle). When these gentlemen appear before the Committee of the Whole we can not only consider the main subject but every other subject that is incidental to it, and I think as a member of this committee, and I insist, that when a proposition is before the committee that we should not be prohibited by the Chair or anybody else from considering anything that properly enters into the subject before us.

CHAIRMAN GALE. The Chair has no desire to limit anybody; the point of order was insisted upon and the Chair believed it to be in accordance with that; you have a right to appeal from the decision of the Chair, and the Chair will be very glad to have you do so.

Mr. SCANLAN (LaSalle). I do not like the actions of the Chair, and I do not think it is proper when a man comes before this Convention and gets into a corner that the Chair should come to his assistance and help him, and I think I am entitled to an answer.

CHAIRMAN GALE. I think he answered that question when he answered Governor Fifer.

Mr. SCANLAN (LaSalle). I am asking about unearned income. I understood him to say that unearned income was money received by an individual, not by virtue of any labor that he performed. Is that correct?

Mr. FELMLEY. Yes, sir.

Mr. SCANLAN (LaSalle). Now, you made the statement that if the land was such land as the large Scully land it was unearned, but suppose the man earned the money that bought the land, and suppose he lives in town and rented it to a tenant, would the rent be unearned income; he earned the money that bought the farm with his labor and the rent he gets every year, would you consider that unearned income or earned income, because he earned the money that bought the farm?

Mr. FELMLEY. Earned income.

Mr. SCANLAN (LaSalle). If you could determine and decide that the money that purchased the farm was earned by him, but if on the other hand he bought it at $1.25 an acre it would be unearned, is that right?

Mr. FELMLEY. There is a question involved that society has not entirely settled for itself as to what extent one may transmit to his children or other heirs; we are taking large slices in taxation, and I have no brief to hold for one side or the other in this matter of inheritance tax; we simply mention that as one of the means that is used in other countries as a means of getting additional revenue.

Mr. SCANLAN (LaSalle). In other words any plan that would bring more money to the schools of Illinois is what you want adopted?

Mr. FELMLEY. I want the system to be a just system and the burden of taxation placed equitably upon all members of the community.

Mr. LINDLY (Bond). I would like to ask the Doctor if at the State convention of teachers, if he believed that the teachers present who voted upon these resolutions understood they meant what he has explained them to mean to this Convention when they voted unanimously recommending them?

Mr. FELMLEY. I believe that most of them had heard something of classification of property, which is the first item; I believe the most of them had heard of inheritance taxes, the second item; I think that many of them, possibly not all know what it meant by the distinction between earned and unearned income through natural resources and understood what is meant when we say that we should raise more revenue from these sources of revenue, I think most of them had some notion; I have talked with some members of the legislature who said they did not understand the meaning of single tax, and if members of the legislature don't know, how do you except the teachers to know?

Mr. LINDLY (Bond). The point I want to make is this, I think it is unfair to the members of this Convention for a paper like this to go out and be scattered to all the teachers of the State of Illinois, saying that these resolutions have been endorsed by the State Association of Teachers and then sending it out as propaganda of the very proposition we have been talking about, and have them condemn this body for not adopting them.

Mr. MOORE (Macon). I would like to ask of the Chair a question. A point of order was raised as to the line of questioning of the gentlemen who appeared before the Convention; I understood Mr. Brandon to say when he surrendered the chair to this Committee of the Whole to you for the purpose of having the tax proposition discussed by the State educators, discussed before this Committee of the Whole, am I correct?

CHAIRMAN GALE. I think so.

Mr. MOORE (Macon). I do not think the point of order was well taken that the questions were not germane; here is a tax proposition before this committee and the gentlemen are trying to elicit facts, and I think all the questions that could be asked that would throw light upon the subject of taxation are in order.

CHAIRMAN GALE. I might state, Admiral, I am inclined to think as to most questions that is true. Had I understood Mr. Scanlan was asking about unearned income instead of unearned increment I would not have said what I did.

Mr. MOORE (Macon). I take exception to the point of order that questions about this single tax or any other kind of a tax that is proposed in this circular, and we are here investigating these propositions that are on the fourth page of this leaflet, according to the understanding of the meeting of this Committee of the Whole, and what we are after is light on the subject of taxation.

Mr. SCANLAN (LaSalle). I do not think the usual parliamentary rules apply, and I do not think the point of order is in order in the Committee of the Whole.

CHAIRMAN GALE. You know the rules which we adopted, Mr. Scanlan said the rules would apply to the Committee of the Whole.

Mr. WALL (Pulaski). Now, I want to confine myself if I can to the propositions put forth here by the Illinois State Teachers' Association in this resolution; you said, Doctor, I believe, you were a member of the committee that drafted these resolutions?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). Did you dictate the resolutions, Doctor?

Mr. FELMLEY. No, sir; I did not, I voted for them.

Mr. WALL (Pulaski). Were you present or assisted in the dictating of them?

Mr. FELMLEY. No, sir.

Mr. WALL (Pulaski). Were you advised by the members who did dictate them?

Mr. FELMLEY. The person who dictated the resolutions, as I understand it, is the secretary of the State Teachers' Association, Mr. R. C. Moore.

Mr. WALL (Pulaski). Did you advise with him with reference to the resolutions before they were put in form?

Mr. FELMLEY. I did not know they were in existence until they were presented.

Mr. WALL (Pulaski). Did you impress your ideas on the resolution committee?

Mr. FELMLEY. Not in the form of the resolution, I am in harmony with them as presented today.

Mr. WALL (Pulaski). I have read Henry George on single tax but not any other author on single tax; you stated a while ago to the Convention, I believe probably before the recess, that Henry George theory was really not his theory, it was older than that?

Mr. FELMLEY. I did not say that, I said the name single tax was given to the Henry George taxation theory by Thomas Sharman, an eminent New York lawyer and publicist.

Mr. WALL (Pulaski). There are really two single tax theories, are there not?

Mr. FELMLEY. I do not know.

Mr. WALL (Pulaski). Under your theory, which is the Henry George theory, I am not talking about the theory that you say you are for, but do not want to put into immediate application in Illinois, but I am talking about the general single tax theory that you would establish as a principle of taxation when the time comes to Illinois and all other places; now, that theory of taxation is purely a theory that puts all the taxes on real estate, doesn't it?

Mr. FELMLEY. It puts all the taxes on the native value of the land, not houses, no taxes on houses or fences.

Mr. WALL (Pulaski). I am counting out improvements, just land values. Now, in these resolutions you say:

"Since our natural resources are the gift of nature to the race and are the real source of all wealth and therefore the natural and original source of public revenues, provisions should be made to collect more revenue for public purposes."

You do not mean by that to collect all the revenue from that?

Mr. FELMLEY. No.

Mr. WALL (Pulaski). You mean to collect a great deal more than has been collected from that source?

Mr. FELMLEY. We say more.

Mr. WALL (Pulaski). When you say more you mean substantially more, don't you doctor?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). That you would collect substantially more from that source, and if the revenues were increased substantially there would be no increase of course upon the other sources that we now get revenues from?

Mr. FELMLEY. Probably not.

Mr. WALL (Pulaski). In other words the extra money would come out of the natural resources which you say are the gift of nature to the race?

Mr. FELMLEY. Not necessarily.

Mr. WALL (Pulaski). The mortgage note or bill of exchange or bond, stock in a railroad or any other corporation, is that a natural resource?

Mr. FELMLEY. No, sir.

Mr. WALL (Pulaski). Then under your theory of taxation that would entirely escape taxation, that class of property?

Mr. FELMLEY. If you tax the railroad you should not tax the capital stock or stock certificate.

Mr. WALL (Pulaski). The properties I have enumerated would entirely escape taxation, the stocks and bonds of railroad companies and the physical properties, that would escape?

Mr. FELMLEY. Yes, sir, but not the right of way.

Mr. WALL (Pulaski). Cattle and horses and farm utensils would escape?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). Household furnishings would escape?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). The homes, of course, of the laboring man could be taxed.

Mr. FELMLEY. No, sir.

Mr. WALL (Pulaski). The ground under the house.

Mr. FELMLEY. But not the house itself.

Mr. WALL (Pulaski). That is part of the home, isn't it?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). That would permit in this State, would it not, at the present time over one-half per capita of the people who are now taxed from paying any taxes at all? In other words there is not one-half of the people who own real estate, who own land and lots.

Mr. FELMLEY. I do not know whether I fully understand your question.

Mr. WALL (Pulaski). Over one-half of the tax payers who are listed for taxes on the tax books of the various counties of the State own nothing but personal property, is not that true?

Mr. FELMLEY. I think it is true, I am not sure.

Mr. WALL (Pulaski). What is your opinion, and I am asking this of you as a man of experience, as a scholar, as a teacher of teachers, what effect do you think this would have on that part of the body politic, that would be over half of them that would entirely escape taxation, with reference to their citizenship, their responsibility to the public, their obligations to the government for the education of their children and roads and school houses and the other functions and the protection that taxes afford, what is your judgment upon that question?

Mr. FELMLEY. You are now talking about a time in the distant future when the taxes shall be put on land?

Mr. WALL (Pulaski). If it was carried out this year?

Mr. FELMLEY. About what we would like to have in the end? I am not in favor and would not be in favor of the introduction of single tax in any old established country; if you are asking what would be true fifty or one hundred years hence after this system has been gradually reduced, that is a different thing. Here is a man with a half section of land and here are some other men who are working on that half section of land; this man who owns it and holds the title to it, he owns the crops and he pays the laborers and pays into the public treasury the portion of the common product of the labor of all; he does that by virtue of the fact that the increased productiveness over the poorest land is so great he is able to pay out of the product over and above what he would have received on the poorer land to sell for a profit to himself.

Mr. WALL (Pulaski). From your estimate of the time it would come in use on a safe basis, I am not afraid it would do us much harm, but what I would like to know is, what in your opinion would be the effect if that was done, if we would so arrange the article on revenue in this Constitution as to permit the legislature at any time in the future, as it sees fit, as it would have in the amendment spoken of by the Senator from McLean (Kerrick) what would be your judgment if the Constitution were so arranged that the legislature could do that next session?

Mr. FELMLEY. If the legislature were given a free hand in the matter of taxes that after a while there would be classification of property and after while that we would be enabled to get revenues from all this intangible property that escapes taxation that we would then gradually untax those forms of property in which we saw that the tax was distinctly a burden on production. I speak more particularly of the taxes on factories and on the instruments and means of production. A tax burden is like a load on a horse; he could carry a load of 100 pounds on his back nicely, but break that up into four pieces and tie each quarter to a foot he could hardly go; that is like a tax burden, you put it on some places of the body politic it will give freedom and larger production, larger public wealth, and a more equal distribution of the product of the community.

Mr. WALL (Pulaski). If you would classify real estate in one classification and personal property in three, you would have something to put on each foot of the horse. Wouldn't the horse be unduly overloaded on one foot if you tied on the taxes on one species of property and permitted the man who has $4,000 worth of property to pay an immense tax and permitted the man to escape who had $100,000 worth of mortgages on a half dozen farms?

Mr. FELMLEY. So far as mortgages are concerned, we have adopted the policy of taxing both the land and the mortgage, double taxation. A few years ago I owned a horse and surrey for my children; after while they went away to school and I sold it to one of my janitors at the school and he gave his note; then the assessor found one horse and surrey and a $150 note, $150 more property in the community than before; the janitor sold it

to a third man and took his note; there was but one horse and surrey, that is all the property there was, but the assessor claims there was $450 in the community, that property was paying taxes on three properties.

Mr. WALL (Pulaski). Isn't it true in making up the wealth of a nation, a state or a school district and the mortgages and the lands are calculated to make up the wealth? Can't I negotiate my mortgage and put it in the bank?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). Can't I buy another farm for $5,000?

Mr. FELMLEY. Yes, sir.

Mr. WALL (Pulaski). Does the mere fact of the exchange of the money for the farm decrease the value of the money?

Mr. FELMLEY. You place a mortgage on the farm for $5,000; the owner owns it all except $5,000, except what you own. Under the single tax we do not pay any attention to the mortgage.

Mr. HULL (Cook). I understand that if the Henry George scheme of taxing land were applied that would be the only scheme of taxes that would be in force in any community?

Mr. FELMLEY. Henry George taught as you know that he believed that the unearned increment of land values in any community would meet all the needs of the community for public purposes, street lighting and everything else, support parks, give music in the parks or entertainments, all those things he had figured out.

Mr. HULL (Cook). You do not really think that would work out, do you?

Mr. FELMLEY. Well, it would be like the case of those girls in the dormitory, if the rent paid by the girls in the best rooms would be enough to that the girls in the worst room would not pay any, that is all the rent we would collect from the best rooms, if that will pay for the fuel and the light we would not charge them anything.

Mr. HULL (Cook). You are in favor of the particular principle, but you would not undertake to say that that would be the only form of taxes that would be in force in this community or any community in which the system was applied?

Mr. FELMLEY. I do not think we would find it enough. I believe we should tax franchises, because that is another form of social product, and that should be taxed, and I do not believe for many years to come, not surely during my lifetime are we going to have single tax in Illinois. I think we shall more and more levy taxes on rental value as the State grows older.

Mr. HULL (Cook). That is a better way of putting it than to call it a single tax.

Mr. MILLER (Cook). That has been applied in England beginning about fifteen years ago.

Mr. FELMLEY. In some places in England.

Mr. MILLER (Cook). It was generally applied in England and Scotland and they have been gradually extending it ever since down to date.

Mr. FELMLEY. So I have been told.

Mr. MILLER (Cook). There is no doubt that that tax will eventually in comparatively few years be comparatively all the taxes of England?

Mr. FELMLEY. They will pay a very much larger share, I don't know.

Mr. MOORE (Macon). You propose to levy an income tax?

Mr. FELMLEY, That is one of the taxes we suggest.

Mr. MOORE (Macon). Don't you think it would be a good idea to run that income tax down pretty close so that every citizen who earns something could pay a portion of the burden of government?

Mr. FELMLEY. I do.

Mr. MOORE (Macon). Don't you think it would be a good thing if the citizen were to be called upon, to pay something to the government so he would feel a duty towards the government?

Mr. FELMLEY. I favor the Wisconsin income tax law, everyone who has an income of $800 pays an income tax.

Mr. MOORE (Macon). It ought to go down until he earns one dollar; every man who lives under the protection of the government ought to bear some portion of the burden of the government in my opinion.

Mr. FELMLEY. Of course if that is all he earns of course he is a pauper. There is a point where it is useless to go.

Mr. MOORE (Macon). I wanted to get your opinion as to the principle of every person bearing his portion of the burdens of government in order that he might feel that he was doing his duty, it would give him self respect.

Mr. FELMLEY. I do not believe in merely a tax on high incomes, I believe there should be a progressive income tax.

Mr. MOORE (Macon). Don't you think it would be demoralizing to exempt a certain portion of the community?

Mr. FELMLEY. Well, perhaps.

Mr. DUNLAP (Champaign). I am interested in this single tax proposition as a theory; I do not think it will effect very much those of us in the Constitutional Convention except as a guide perhaps to steer clear of. I want to ask a question or two in order to get my bearings; I would like to know to what extent you think the single tax as applied to land without taxing other property would increase taxes upon the farms, we will say the producing farms of the country now over what the tax is at the present time?

Mr. FELMLEY. I think on these rich lands of the corn belt there would be a great deal more tax than on the thin lands of southern Illinois or along our streams in the northern central part of the State, there would be less increase.

Mr. DUNLAP (Champaign). How would that affect the cost of living? Those living upon the products grown upon these farms?

Mr. FELMLEY. It will not raise the selling price of a pound of meat or a bushel of corn; it would come out of the rent of the owner living in town.

Mr. DUNLAP (Champaign). If the farm has not been paying over four per cent, on what do you presume that a man can live, can he add very much to his taxes and yet live on a four per cent valuation? Wouldn't he put his money in other property and let the land go to waste?

Mr. FELMLEY. Our Illinois lands will produce just as much if they are worth $100 or $400; the Prairie Farmer has been arguing the question of inflated land values.

Mr. DUNLAP (Champaign). Isn't it a fact that the consumer pays the cost of everything, and ultimately the man who buys the products of the farm will pay the taxes on the farm, so in the long circle, that when we get around to it, don't the whole thing resolve itself in the payment of taxes by everybody?

Mr. FELMLEY. A tax on land value will not increase the selling price of agricultural products at all.

Mr. DUNLAP (Champaign). Now, that we have finished with the theory part of it, I would like to get down to something that is really tangible and has not been touched upon. Can you disclose to this Convention in what way you can put upon the tax books intangible property now that escapes taxation? I have been over this tax problem a little, and we undertook in 1898 to get intangible property upon the tax books by preparing a proposition that all property should be listed at its full tax value and one-fifth taken for purposes of assessment, land and other real estate being assessed at one-fifth of its value; it was thought that when you undertook to tax intangible property like money and credits that if you put it upon the same basis as land and real estate then that this property would be disclosed and go upon the tax books and the result would be that everybody would pay an equal amount of money, no matter whether the property was tangible or intangible. Is there any theory by which you can make people disclose intangible property and place it upon the tax books? If you can do so you will help solve some of the problems this Convention has before it, in my opinion.

Mr. FELMLEY. I have only one suggestion; if the legislature has been wrestling with this problem for fifty years and has not solved it, don't expect me to do it. There is a man in my town who pays taxes on $800,000

worth of intangibles; he complains about the fact that the money is not worth more than three per cent, but he pays it because he is a conscientious man; what he complains of, is however, that lands are not assessed as high; that he has $800,000 of notes and that he hands that in to the assessor and $400,000 goes down as the assessed valuation upon which the tax is to be laid, but if he had lands worth $800,000 in McLean or Champaign, the assessor would look at that land and he would put down—he would value that land not at $800,000, but at $250,000 and then he would put down on the books $125,000. Now, what this gentleman complains of is not that he has to pay, he feels he ought to pay his full share, but that the land owner who has the same amount of property is not assessed at the full amount; that the assessor under-values lands, putting them down at one-third at what they are selling for and then takes half of that. Now, take a stock of goods; we had a fire twenty years ago in Bloomington and this fire occurred on the 19th of June; I remember the assessor assessed the goods in the nine business houses of that town that were burned out and the total amount of their stock was $131,000 and when the adjustor came along the value of the stock in June was over $440,000 and everybody knows in the clothing store and in the dry goods business there is a bigger stock in April than in June. It is that thing, that stocks of goods are valued by the assessor at half or a third of the real value and so that farm lands are valued at less than one-third of their real value while money and notes are put down at full value, that makes my friend warm under the collar.

Mr. DUNLAP (Champaign). Suppose we grant that all your statement is correct, and a large part of it is correct, a man who has $10,000 in the bank, it is $10,000 and under a forced sale it will bring $10,000, and the assessor puts down the amount at $10,000 because it will sell for that, but when he comes to your building that you paid $10,000 for and he looks at it and he makes a calculation as to the value, he says that under a forced sale it might sell for $5,000, and therefore I think the full value of that to be fair at $5,000. There is an inequality between real estate and money, we acknowledge that, that is trouble all along the line, that money has been taxed more than real property has been taxed, that is what we have been trying to get away from and that is what we would like to get at now. Have you any solution on that question? Can you say how it is that that can be placed upon the books, on the tax books on an equality with real estate?

Mr. FELMLEY. I think this, I am thinking if you people would see to it that the assessors assess real property and houses and all kinds of property as high as you assess moneys and mortgages, then the men who have the money and mortgages would not feel they are paying a lot of other peoples' taxes; for it is that belief, that sense of injustice that drives men to perjury, and that is the reason why the tax system is a school of perjury promoted by law.

Mr. DUNLAP (Champaign). Do you think the legislature ought to be authorized to fix a basis for the taxation of moneys and credits from time to time on the same basis that real estate is valued, that is, a percentage of value.

Mr. FELMLEY. I do; you remember the Supreme Court held that in certain of the utility properties in Chicago that 70 per cent of the value of the railroad is as much as they ought to pay.

Mr. DUNLAP (Champaign). Isn't it practically impossible to get real estate or buildings taxed at their full cash value, isn't it almost impossible to arrive at the real cash value of property of that kind?

Mr. FELMLEY. Yes; I think so.

Mr. DUNLAP (Champaign). How would the assessor go about to ascertain that value? He looks at a building on the outside and it looks like a $50,000 building; you go inside and it may be poorly constructed and may be worth $25,000, so you may over value some property and under value others, so that the assessor is not to blame so much after all.

Mr. FELMLEY. I think the assessor should be an experienced builder who knows the values of buildings.

Mr. LATCHFORD (Cook). The hour is getting late; there are others here from all over the State who desire to be heard on this proposition. I have learned a great deal from the Doctor, and judging from the reception the Doctor has received I am sure he has enjoyed it also. I would ask, however, at this time, if the Doctor would kindly consider returning tomorrow morning after our session if the others wish to catechise him and give us some further enlightenment. If so, I would like that the Teachers' Federation, and others who are assembled here tonight to speak, if they will. Let us hear from the Doctor tomorrow morning.

CHAIRMAN GALE. Possibly the Doctor may be excused by unanimous consent. Has anyone any objection?

Mr. BRANDON (Kane). If we excuse the Doctor it should be understood that it is impossible for the Committee of the Whole to get any further allowance of time for this hearing. I just talked with the President; he said he will stay with you all night but tonight has to end it.

Mr. LATCHFORD (Cook). I am willing to stay as long as Mr. Brandon or any one else, and after the others are through, let us sit and hear from the Doctor.

CHAIRMAN GALE. We will call on the next speaker, Mr. R. C. Moore, the secretary of the State Teachers' Association. In view of the lateness of the hour, would you prefer to have all the other speakers and then call back such ones for questions as you want, or would you prefer to question Mr. Moore when he finishes, and so on?

Mr. SCANLAN (LaSalle). You may apply that rule after we are through with Mr. Moore.

Mr. MOORE. Mr. Chairman and gentlemen of the committee: The ground has been so thoroughly covered on this long day of addresses and of questioning and cross questioning that I feel that there is very little that I can add to what has been said.

I had intended at this time to pick up a few of the loose ends, if you can imagine there is anything that has not been thoroughly threshed out and discuss them for a little time.

I want to say to you first that I believe that a large number of the teachers in the State of Illinois and of the United States know exactly what they do when they adopt resolutions. I believe that the teachers are absolutely sincere in what they are trying to do; the first thing they are trying to do is to give absolutely good service to the people of this country in the schools. They are very seriously disheartened at times, and I have been a teacher since 18 years of age and have been associated with them all my life, and I feel I know the teachers are very thoroughly disheartened at times and particularly within and during the last year or two because they absolutely cannot comply with the demands of the people of Illinois and this country in delivering the service that is demanded of the teachers.

I want to call your attention to the fact that these demands are constantly increasing, and I am not blaming the great public that makes up the State of Illinois and the United States, of which I am a humble part, for making these demands—and particularly since the war has disclosed the needs of so much more educational, recreational, vocational, physical and moral development of the youth of this country. It is only natural that these demands should be made and will be made and will increase, and it is disheartening and discouraging to the teachers to know that we cannot meet those demands, because good teachers are leaving us constantly and entering other work and other professions, are because bright, brilliant young people are not entering a profession which does not offer financial encouragement and future to them. Only yesterday the principal of the high school in Springfield was called to Cleveland to work in a bank, and this city has been without a sufficient corps of teachers several times during the last year.

I will not dwell on that. If you think because we are recommending some things to you as our ideas of the sources of revenue which will go to remedy this, if you think we are doing things that are too fundamental or some of you might call them radical, I want to say to you, they come out of

our hearts and our minds and our very souls because we are trying to get that thing which will enable us as a profession to do the work that the State of Illinois is demanding of us, and the teachers are sincere, and they deeply regret the fact that they cannot meet these demands; it is a matter of professional pride with us since we desire to be of real service to the State when we demand these things.

I do not want to take the time of the lady who is to speak after me, but I wish I had the time to tell you of some conditions I know of in the State of Illinois. I was county superintendent eight years in an industrial county; I visited many communities that contained coal mines and I think I could melt your hearts with the details of the conditions in those mining towns where 80 and 90 and even 100 children were packed in little unsanitary school rooms with a little girl teacher who has been over here from Russia or from Italy probably 12 or 15 years herself. Talk about Americanization; those girls are doing the best they can, God bless them, but they have not been thoroughly Americanized themselves, but they are doing the best they can with the little revenues they have in those places.

I cannot refrain from calling your attention to this map for just a moment. Now, gentlemen, this is a map of Macoupin county where I served as county superintendent, and I have been over every road and on almost every farm in it. Macoupin county—it seems that a few of you gentlemen from Chicago do not understand the organization of the school system down State, that was revealed in some of the questions, so I want to call your attention to this. These colored spots here are entire and complete school districts in Macoupin county. There are a little more around here (indicating on map). I have picked out a few typical districts, gentlemen, and Macoupin county is typical of several other of industrial counties in the State, counties containing mining districts. Here is a district I want to call your attention to, number 133; that is a mining community where we absolutely cannot Americanize the people under present financial conditions for reasons which I have already intimated. The assessed valuation is absolutely and entirely out of proportion to the number of children they have to educate. They are taxing the people in that village $4.17 this year as a tax rate upon their property; right over here three miles away is a wealthy district with great big farms and some railroads, and I believe one of the mines in this corner where the tax rate is only 22 cents; in other words, the tax rate over here is nearly twenty times what it is over there (indicating on map). A few years ago when we had the one-third valuation, the tax rate was almost exactly 44 times the tax rate over in this district. You men are all here representing different parts of the State, working with united interests, and the General Assembly meets here every two years for community interests, so we claim if there was a proper assessment in the State of Illinois, if the unit of taxation were enlarged so one-third of the revenue would be raised by the State, one-third by the county and one-third by the local district, we would have as nearly as we can imagine now a just and equitable system of taxation.

Let me say that the teachers are paid miserably low salaries; nothing has been said about what the salaries in Illinois actually are. I have the figures here, gentlemen; I do not want to take much more time, but I do want to give you—and by the way I have that cook question that was asked from Wisconsin; they made a survey up there and have everything from plumbers down to elementary school teachers; the plumber at the top and the elementary school teacher next to the bottom; she gets $54 more than her laundress in a year's time; a cook in Wisconsin gets $700 a year besides some other things in the way of board and bedding, and the elementary teachers in those 46 cities average $644 for their year's work; the average wages for teachers in Illinois for last year were $848.16, and that included the $10,000 and $5,000 superintendents, and taking all the teachers, the principals, superintendents and assistant superintendents in the State of Illinois it makes the average wage $848.16; the increase in teachers wages for the last seven years, or since 1913 is only 28 per cent; while the

increase in the cost of living as reported by the United States Department of the Interior and which has been checked up by some of the great statistical bureaus of this country and found correct within one or two per cent, has been over 109 per cent in the same time; if you want to know why the teachers are thinking about taxation and economic questions, I think that explains this.

This red line marks the rise of teachers' wages; they have gone from 100 in 1913 up to 125 in June 30, 1919; they actually gained on the cost of living for two years; this blue line indicates the cost of living; 1913 to 1914 the cost of living actually fell just a little. Then it rose in 1915 to a little above 1913, and then the war came on and the cost of living actually shot up here to 209, an increase of 109 per cent over what it was in 1913, and it was generally admitted, in fact it was preached by men in the pulpit, by the press, from the rostrum, women's clubs and people everywhere generally admitted at this time that teachers' wages must be raised to meet the cost of living.

Mr. DUNLAP (Champaign). I think the Convention will admit all those things; if you will give us something on the revenue question, we will admit that.

Mr. MOORE. I thought maybe you would want to get rid of these teachers, because they really have some ideas. You are getting rid of them rapidly, hundreds every day probably in the State of Illinois, but you don't want to get rid of them, you want them to teach school and you want them to be satisfied. We have adopted this program. We have made certain recommendations to this Convention which are the ideas of the teachers of the State adopted by the State Teachers' Association, and they are not a single tax program as they were adopted. Now, a great deal of time was taken up with Doctor Felmley in discussing the single tax idea; let's not talk about the single tax; we are advocating that there be in the first place, the fundamental idea that there be a loosening up of the restrictions on the General Assembly of the State of Illinois whereby more revenues can be raised; every time we appeared before the General Assembly of the State of Illinois we are asked the question, where can we get the money; we hardly knew; in 1917 we were asked that question; we were also told that taxes were up to the limit, and any additional tax would be an unbearable burden, but the very next year, the law was passed in 1918, the United States Government, right after we were told that any more taxes would be unbearable, takes 400 million dollars out of Illinois in one grab; that makes us think if they can pay that much for war, and we are glad they could, we believe also, if they could do that for war, as good, old Doctor Joseph Swayne, a good old Quaker president of a college in Pennsylvania said, to make the world safe for democracy, they could certainly pay a similar amount or a larger amount to make democracy safe for the world; if they could do that in order to save the world for humanity they could do the same thing for making the world worth saving for humanity, and that is the idea of the teachers of Illinois when they submitted to you a possible source of public revenue. It has been discussed and numerous questions have been asked about it. I could talk on a great many of these things, but I promised to be brief, and I wish to give the next speaker some time. I shall now desist.

Mr. SCANLAN (LaSalle). A few years ago the legislature passed an act governing and controlling teachers' certificates, didn't they?

Mr. MOORE. Yes, sir.

Mr. SCANLAN (LaSalle). And the organization you represented advocated that measure?

Mr. MOORE. Yes, sir.

Mr. SCANLAN (LaSalle). That measure required that in order to get a certificate the teacher must be a graduate of high school.

Mr. MOORE. No, sir.

Mr. SCANLAN (LaSalle). What change did it make in reference to the qualifications of the teacher for a certificate?

Mr. MOORE. I could not say now, I do not remember; I have the school law here, I can look it up. Fundamentally, the new certification

law was to provide a large number of certificates and grade them according to the particular work or class of work the teacher was to do, and had a tendency to raise the standard of educational qualifications for the teacher. However, it provided, Mr. Scanlan, there be emergency certificates and a third grade certificate under which the standards of educational qualifications were very low.

Mr. SCANLAN (LaSalle). And those provisional certificates were good for how long?

Mr. MOORE. A provisional certificate was good until the next examination.

Mr. SCANLAN (LaSalle). Now, a person who received such a certificate, if he or she cannot take the next examination, that is the end of that certificate?

Mr. MOORE. Yes, sir.

Mr. SCANLAN (LaSalle). The point I am making is this, the actual working out of that act has tended to reduce the number of persons applying for certificates. In other words it created a shortage of teachers?

Mr. MOORE. I don't think it did.

Mr. SCANLAN (LaSalle). Previous to that there were many teachers in southern Illinois who had received certificates under the law that then existed who were not graduates of high schools, but taught in schools?

Mr. MOORE. Yes.

Mr. SCANLAN (LaSalle). This law ended that?

Mr. MOORE. No, it increased the qualifications some.

Mr. SCANLAN (LaSalle). You are organized for the purpose of looking out for the interests of the teachers?

Mr. MOORE. No, I don't agree with you.

Mr. SCANLAN (LaSalle). As a matter of fact actually the primary purpose of your organization is to better the conditions of the teachers of Illinois?

Mr. MOORE. I could not say that, because I believe the teachers live up to the purposes absolutely as they are stated in our Constitution.

Mr. SCANLAN (LaSalle). Then your organization is different from other organizations; your first interest is looking out for the interests of somebody else?

Mr. MOORE. We do look out for our own interests, but there are two other purposes.

Mr. SCANLAN (LaSalle). Of course, after we get more money available for school purposes there would be more money to be paid to teachers for salaries?

Mr. MOORE. Yes, which I think everybody admits is necessary.

Mr. SCANLAN (LaSalle). Somebody suggested there be three kinds of taxes levied, one-third by the State, one-third by the county and one-third by the local district?

Mr. MOORE. Yes, sir.

Mr. SCANLAN (LaSalle). What plan have you got for the distribution of the taxes so collected to each district?

Mr. MOORE. The local district taxes would be spent in the local district.

Mr. JOHNSON (Bureau). I rise for a point of information.

CHAIRMAN GALE. What is the point?

Mr. JOHNSON (Bureau). I would like to know whether this is a secret assembly? (Laughter.)

Mr. MOORE. It seems to me the local district fund should be spent in the district where it is raised. The State fund has been levied upon the whole State, collected from all the properties in the State and distributed to the counties and by them to the townships and by them to the districts upon the basis of the minor population; we have never threshed that out completely, but some of us believe it should be upon the actual attendance of the pupils in school. The county tax, I believe under our present district organization as it is, unless some radical change were made in it, which I am not prepared to recommend, would

have to be distributed upon the same basis as the State fund; in fact it may be turned in with it when the State fund is received from the State Auditor.

Mr. SCANLAN (LaSalle). In your judgment are the country districts in any worse position with reference to revenue than the cities?

Mr. MOORE. No; nearly all the city school districts, or at least the average school districts in these industrial villages are the worst conditions in Illinois, even worse than Chicago where they are limited by the Juul Law to $1.20.

Mr. SCANLAN (LaSalle). Take the situation in Carlinville where the mines are located outside the school district and the miners live in Carlinville, and that situation is such that it places on Carlinville a burden it ought not to bear; how would that be solved by this proposal?

Mr. MOORE. This county tax would reach out and take in the mines.

Mr. SCANLAN (LaSalle). The distribution of it, would it solve it in the distribution of it?

Mr. MOORE. Only in this sense, that the children are much more num erous in these towns and cities and villages than the country. The tax rate in most country districts is low. They have few children and get very little part of the school tax. I have heard a great many things today and recently complaints about the way the cities and communities reach out and take in the country under the high school law. The motive or reason for that has almost always been one of revenue, they had to take in additional and larger territory, it was a matter of revenue.

Mr. SCANLAN (LaSalle). Don't you think the present country school system, with school houses two miles apart, was designed to fit a time where the day of the small farm existed, and that now where the farms are larger with the number of children in the district so small it would be much better if the country schools were consolidated, would not that relieve the situation?

Mr. MOORE. Yes; as we get good roads, gentlemen, country school consolidation, which is now taking place to a certain extent under the bill introduced by Senator Dunlap will solve that problem very greatly.

Mr. SCANLAN (LaSalle). The laws applied to school questions in Illinois are so complicated, if a system governing the whole question were designed, it would cure a lot of the extravagance and waste and inefficiency, and that would help in a large way in remedying the situation.

Mr. MOORE. That is a condition devoutly to be prayed for.

Mr. SCANLAN (LaSalle). Then we would be relieved of a great deal of burden. Would it then be necessary to raise taxes on the present basis as it we continued that system?

Mr. MOORE. The taxes might have to be higher, but not so much higher as to carry out the scattered system as we now have it.

Mr. SCANLAN (LaSalle). For instance, paying teachers for teaching three children is a waste.

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). I would dislike very much to have anybody go away from this hall feeling that the great State of Illinois had been mean and niggardly toward any of its institutions. Now, don't you think when the whole story is told that Illinois has been rather generous to all her institutions including the schools?

Mr. MOORE. That is just a little stronger, Governor, than I can sanction.

Mr. FIFER (McLean). You cannot quite go that?

Mr. MOORE. No.

Mr. FIFER (McLean). Don't you think it would have been well and would have made us all feel better if you had brought a few pictures and showed them to us of the magnificent buildings over here of the University of Illinois and no less than five normal schools and the other great buildings that the people of the State have erected to the cause of education? It would have left a very good impression and we would all have felt proud of our State and felt very happy indeed.

Mr. MOORE. Let me say now that we as teachers are thankful for the amount of money that has been spent, we are thankful for these magnificent institutions that the Governor has named; we are thankful for such a magnificent school system as Joliet with its township high school; those are magnificent institutions, and I would like to bring those pictures and hold them up before you and say, here is what I would like to do so that every child in Illinois can have these same advantages.

Mr. FIFER (McLean). It would make us feel good.

Mr. MOORE. I don't want to make you feel bad, Governor, but I would like to bring to you some of the unsanitary hovels and old frame shacks in these mining communities, too, and show you where we are asked to make good patriotic Americans, and show you the conditions under which we are asked to do it.

Mr. FIFER (McLean). Do you know how much the State of Illinois is spending for the cause of education annually or semi-annually?

Mr. MOORE. About fifty million dollars annually.

Mr. FIFER (McLean). The reason I asked these questions is because I don't want the impression to go abroad that this State has been niggardly and stingy to any of its institutions. I happened to be the executive head of this great State for four year, and I soon learned there were other institutions that needed support besides educational institutions; we have penal, reformatory and charitable institutions, nearly fifty in all, and every legislature they were here with both hands out and asking for more and more and more, and we had to chop it off some place, we could not give everybody everything that they asked. If you gentlemen would think it over, I think you would look more charitably at this situation. Did you have anything to do with the writing of this little leaflet containing the reoslutions that have been referred to here?

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). You wrote them?

Mr. MOORE. Not as they are.

Mr. FIFER (McLean). You endorse them. You refer to the fact that in 1917 you asked for one million more money, and that was denied because taxation was so heavy?

Mr. MOORE. That is the reason.

Mr. FIFER (McLean). And then you followed that statement with the other, that the United States Government had levied a tax of 400 millions of dollars and we paid it?

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). And the implication being left that we did not give you the money that you asked in 1917, we did not perform a public duty; that is the implication, because you say that we raised 400 million; did you take into account we were in the greatest war that the world has ever known?

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). And the people were not only compelled to give their money under pressure, but the best of their young men, and did give up the lives of more than 100,000; now, do you think that was a just comparison under all the circumstances?

Mr. MOORE. I say that to show that there were sources of revenue in Illinois that the people in Illinois had absolutely neglected until the need was so very great.

Mr. FIFER (McLean). Don't you know that the United States Government has the power and the right to take every vestige of property in Illinois if necessary for war purposes?

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). And every human life within the borders of this State?

Mr. MOORE. Yes, sir.

Mr. FIFER (McLean). And you were willing to have it done?

Mr. MOORE. Go as far as necessary to do the job.

Mr. FIFER (McLean). Because they did give up 400 million you thought we didn't do right a year before because we did not give you one million more for your schools?

Mr. MOORE. They did according to their best light, I suppose.

Mr. FIFER (McLean). I don't say this in any criticism, I say it only in defense of this great State in which I feel a very great pride, and I think if you gentlemen engaged in school teaching and who are doing a magnificent work which we all appreciate, I think if you will look at this question in a more charitable light than you seem to have done in these hearings.

Mr. MOORE. We thank you for your advice, Governor.

Mr. LINDLY (Bond). The important work of this Convention undoubtedly will be the revenue part of it. I do not care to start the discussion again, I simply want to ascertain the views of the gentlemen so we may know how much weight to give to them in asking these questions; I believe you said you wrote these resolutions?

Mr. MOORE. I didn't write them as they are, Mr. Bond; the chairman of this committee sent each one of us a notice to get in mind some certain resolutions or proposals for the committee on the revision of the Constitution to consider. There were several different ones who had ideas to express; I happened to sit down and write out a set of resolutions, and they took my set as it happened and discussed them adding to them, amending them in a place or two and finally they were adopted by the committee in the form we have there.

Mr. LINDLY (Bond). Professor Blair said this morning there was about ten minutes given to the consideration of the resolutions?

Mr. BLAIR. I was there only about ten minutes.

Mr. LINDLY (Bond). You only gave ten minutes attention to them, and then recommended them. Did the Convention do the same thing, how much time was taken to the reading and discussion of these resolutions?

Mr. MOORE. They were not discussed very much, they were pretty roundly applauded when they were read and the vote put and carried without a dissenting voice.

Mr. LINDLY (Bond). You have listened to the Doctor here that you entertained the same ideas in regard to those resolutions that he does?

Mr. MOORE. These resolutions, the same ideas with regard to these resolutions, I think so, if I understand your question.

Mr. LINDLY (Bond). The effect of them as far as single tax and other questions that were discussed, the effect will be the same as he stated?

Mr. MOORE. Are you implying that Doctor Felmley said that these resolutions meant the single tax?

Mr. LINDLY (Bond). He fully demonstrated that, in 100 years.

Mr. MOORE. That was not the purpose of their adoption.

Mr. LINDLY (Bond). Did you discuss in that convention the increments on land?

Mr. MOORE. I remember that Superintendent Blair asked if that meant the single tax.

Mr. LINDLY (Bond). Do you believe that the school teachers knew what that meant?

Mr. MOORE. I do not suppose they all did, I think the large number of them did.

Mr. LINDLY (Bond). Do you think they had any idea what this meant, about the unearned increment.

Mr. MOORE. I think they did.

Mr. LINDLY (Bond). And you think this is what this Convention should adopt for this revenue section, do you think they should be adopted?

Mr. MOORE. Yes, sir.

Mr. GREEN (Champaign). I move that we hear the next speaker.

CHAIRMAN GALE. The next speaker will be Miss Margaret Haley.

Miss HALEY. Mr. Chairman, and members of the Convention: I was scared stiff for fear I would not get a chance to speak to this Convention—I was too young when the last one met, and I knew I would be too old for the next one, and hence my fear, for I wanted to talk.

I remember a few years ago when the teachers of Chicago had their salaries cut, they found out the franchises of the public service corporations were not paying their taxes, they took the matter to the courts, and they had two court decisions; they had a decision from the Supreme Court of this State ordering the State Board of Equalization to return and assess the public service corporations of Chicago. By the way they did return later and they added about $200,000,000 to the full valuation of five public service corporations. While the Supreme Court decision was still in effect and before it was obeyed the Federal Court interfered; some of these corporations asked some Federal Court for an injunction, and while injunctions were not as plentiful then as now, they got one; there was in addition to that an order to the State Board of Equalization ordering that board not to obey the order of the State court, and it came time for the State Board of Equalization to obey the order and the last night had come; the next morning it had to go in before Judge Thompson and present its assessment on that $200,000,000 of value, and they had the order from the Federal Court ordering them not to do it, and they did not know what to do. During the confusion of thought, while they were making an assessment and yet trying to avoid making it, the jailer over in the jail here in Springfield came in and told the State board—it was meeting some place in the Capitol trying to make that assessment before the 21st of November—he said, "Boys, just to make you feel comfortable, we have removed all the prisoners from one tier of the jail so you will all be together in the cells," because the next morning if they obeyed the State court, they would go to jail, and if they obeyed the Federal Court and not make the assessment then the State court would send them to jail. You are very much in that position in this Convention. You think you are in a bad state because of the resolutions that were adopted on December 30 in Springfield in this room I was a delegate to that convention and I was one who voted for those resolutions; I will say now I had nothing to do with the framing of them, and I didn't know anything about them, but I said AMEN to that, Thank the Lord, Glory Be To God, Glory Hallelujah, because I liked them. You think they are radical; I would like to read you something that happened in Chicago at the same time that these resolutions were being adopted here. Another body of teachers were meeting in Chicago. It was a National body. They represented teachers from the North, South, East and West; they were teachers from Boston, San Francisco, Minneapolis and St. Paul, and from down in New Orleans; they were from every part of the United States, and they were the delegates from their organization, and I would like to read you the resolutions they adopted. Those teachers knew nothing about what was going on in Springfield, and we knew nothing what was going on in Chicago; the two things happened simultaneously, and I am going to show you they knew what they were doing in Chicago. These are their resolutions; they recited the needs—and if I had time I would tell you what they said; as a practical method of securing adequate revenues for educational purposes, the convention, after long discussion adopted the following:

"Wheras, the taxation of buildings tends to decrease the number of buildings and so to raise rents and to fall heavily upon the masses of citizens who cannot afford to pay;

"Whereas, the taxation of any goods which are produced by labor tends to discourage their production and to so raise their prices to the people;

"Whereas, the taxation of land value tends to encourage building and production by making unprofitable the holding of land out of use for speculation purposes, and so operates to reduce rents and prices;

"Whereas, the holding of land out of use for speculation makes rent high, discourages production, limits opportunity of employment, and so

raises the price of land as to make home ownership difficult for the masses;

"Whereas, the value of land as distinguished from the value of the improvements on it is chiefly a matter of situation and of population growth and is in no considerable degree due to any activities of the owner, and

"Whereas, the private enjoyment of this value is the cause of our present gross economic inequality,

"Therefore, we recommend that the funds necessary to maintain and increase education efficiency should be secured by taxes on land values rather than on buildings or other goods produced by labor."

The matter of a decent financial recognition of the value of the teachers' service to the community is primary, and until full justice is done to the schools and to teachers in a financial way, no one has a right to utter a word of criticism of our efforts to obtain that full measure of justice.

I told you this was a Nation-wide organization. I will give you an idea of its character from the standpoint of a judge from without the organization or the convention. This is from the superintendent of schools of Chicago who welcomed this organization on the first day of its convention in Chicago. This is from the stenographic report from Professor Mortenson's address.

"It gives me very great pleasure to address a gathering of this kind, representing as you do, the most progressive movement in education, as I see it, today. I am glad that so many have interested themselves to come out on an occasion of this kind, a delegate body, as I understand it, representing the teachers who are progressive enough to initiate things worth while."

That is evidence from the outside. Now, I am going to ask you to hear evidence from the inside; that is, from one of the delegates who is a teacher in the University of Illinois, and whose organization there sent her to the convention. She was there, and gave her impression of the convention. She said: (Reading.)

"My words will be those of personal gratitude for the vision and stimulus I received at the most inspiring educational gathering I ever attended.

She goes on to say, "I was literally born and brought up among University faculty. The atmosphere of scholarly utility in which pedagogues foregather to pass wistfully idealistic resolutions from which they themselves expect no practical result has been familiar to me from my childhood. But the A. F. of T. Convention was something absolutely new in my experience of educational conference. Here was keen, close, creative thinking; here was a demand for accuracy and practicality in the formation of demands; here was intense alertness, resolute independence of thought and speech, freedom, and tolerance in discussion. Here, above all, was the group mind which is the ultimate realization of democracy. Out of all the clash of opinion on every issue there emerged a conclusion which truly represented the mind of the delegate body as a whole. This was no mere majority opinion to which the minority gave an unconvinced assent for the sake of order."

I am going to read this again: "This was no mere majority opinion to which the minority gave an unconvinced assent for the sake of order."

"Our group mind included the minority as well as the majority. It was a whole to which we each contributed as parts. At the close of each debate we somehow felt that the conclusion reached was more truly what we desired than the individual opinion with which we entered the discussion.

"To my mind, the A. F. of T. illustrates the truism that the highest intellectual and social development comes only with power."

It was because those teachers had the impulse and feeling that comes from the feeling of power, that these men and women could see that this feeling of futility had gone. Now, that feeling of futility has gone from the teachers, or is going, and the teachers have the feeling of power. Perhaps that is one of the gifts the war has given the teachers. They were told all during the war of their power, of their influence in the community. They

could not hear that all during the two or three years that the war was going on and not feel after it was over that somewhere they still had that power. They had that power to do things under the stress of war, and they felt that that power must be in times of peace, and especially in this reconstruction period.

Some of these teachers have come to feel the power that has come from coming together. Those teachers from the East and West, North and South, came to feel it. There is history going on for twenty-five or thirty years in these gatherings of teachers. And these resolutions passed by the Chicago group, and these resolutions passed in Springfield simultaneously, each group not knowing what the other was doing, can be duplicated all over the United States today. Perhaps you are surprised to hear this, but you need not be. The teachers are all united for the stand taken by these groups. Let me tell you another serious thing in connection with this. These teachers outlined what will happen, to not only the schools, but to the children of the future of this body politic if some of the Constitutional suggestions which the leaders of thought today among the teachers have made you are not put into some form, whether it is fundamental law, statutory law, or in some other way that is made effective. And they have outlined it so well I will ask your indulgence while I read it. They have outlined the needs of the schools and then show that the public may take one of three attitudes towards these very urgent demands. It may do nothing; it may do something about doubling the revenue, because that will bring the teachers back to the old position they were in in 1914; or it may agree to treble the amount of money for educational purposes, and that may hold the teachers in the schools.

Now, if they do nothing, this is a solemn word of warning from the teachers of whose character I have outlined to you. (Reading:)

"(a) The deterioration of the schools will go on at an increased pace; (b) The whole force of teachers, nearly a million strong, will be angry at a plain injustice to deserving public servants. They will become increasingly convinced that the present social order is unfit and must be displaced. They cannot fail to pass on their views to the youth under their charge, and the on coming generation will also be opposed to the present social order; (c) The more brilliant and capable of the teachers now in the system will get out into other occupations where there are more attractive opportunities. This will be a deadly blow to public education in two ways: It will leave the less capable teachers in the schools and will leave them without intelligent leadership which looks beyond the necessity for change to a constructive program of reform that shall deserve the support of the entire public. The only favorable soil for the propagation of destructive radical ideas is the soil of economic injustice. Our schools are the bulwark of social order against destruction. Can they so continue if the just claim of the teacher is further neglected?

"The teacher can be trusted far. He is patient, long suffering, reasonable. We expect him to take the alien and the child of the alien, a mingling of all the world's races in our cities, together with our own children, and to train them all alike to an appreciation of America's ideals—to show them that America stands for human opportunity. Can we expect him to do this if for him America does not mean opportunity, if he works under conditions that spell unappreciated self sacrifice and finally a just indignation? We cannot afford to have sullen, embittered teachers in our schools."

That is the pronouncement of this Convention. This comes under the finding of the teachers that have been looking about. They have suffered from these conditions. That chart which Mr. Moore showed you with the cost of living going skywards and the salaries of the teachers going down is what makes the heart aches and heart breaks; it means hard times and greater hours; it means going home after school and doing your laundry; it means doing it Sundays; it means being your own dressmaker and your own milliner and your own cook. You asked a teacher here today about a cook, about the salary a cook received, and she smiled and said, "What do we know about cooks?" What teacher has a cook? None of them. They are

their own cooks, and dressmakers and milliners and scullery maids. That is the way they spend their spare time; and they are spending their spare time, more of it, looking for rooms. I know teachers that spend a hundred dollars a month for a room, and I know that there are thousands of teachers looking for rooms, and who will spend their whole week's vacation looking for rooms. Do you wonder that those teachers look at the vacant lots, do you wonder those teachers are saying: "Why is not there a house on that lot for me to live in? Why is a man permitted to hold that out of use and keep me from having a place to sleep? Why do I have to sleep in a hall bedroom where I cannot get air enough to refresh me for my next day's work when there is plenty of air and sunshine out there?"

Two vacant lots out of three in the City of Chicago, and the teachers and the rest of the people without any place to live, and they know perfectly well if a man puts up a house on that lot he will pay more taxes when our unscientific, immortal tax laws—I haven't enough language to use—that the law will fine a man who puts up a house but will place a premium on the man that keeps the lot vacant. Half of the teachers never heard of Henry George any more than some of you people in here. (Laughter.) They are taught in the hard school of experience; they learned it the way we learned about the franchises. Do you know the way we learned about franchises? When our salaries were to be cut a few years ago, we saw it in the newspapers, and we had made the most desperate fight made in history to get the salary of $800.00 raised to $1,000.00; our Board of Education has a way of adopting a salary schedule and not living up to it; they will wait until the money comes in; they adopted $1,000.00 as a maximum and they promised it to the teachers, but in the meantime along comes the Juul Law and cuts out $1,000,000.00 from the school fund and the teachers didn't get the money; they saw in the papers that the Board of Education was going to cut the salaries, and in the same paper we saw this astounding statement; there were $200,000,000.00 of franchise values belonging to the public service corporations which were not taxed. We looked into that question; I left my school room at the request of the teachers to investigate that matter, myself and Miss Goggin, and we had a most interesting experience doing it, and we came back and told them it is true the public service corporations of Chicago have property worth $268,000,000.00, and only $35,000,000.00 of it is taxed, and that $35,000,000.00 is the reported value of the physical property on the sworn statement of those companies, and those companies, the Gas, Electric Light and Telephone, and finally the Street Railway, all those companies were charging the people of Chicago a five cent carfare, a high gas rate and telephone rate, and ultimately we got 5 per cent on $268,000,000.00, and they were paying taxes on $35,000,000.00, and we asked them to assess those corporations, and they did and turned in $600,000.00 into the public treasury in July, 1902, with back taxes for the year 1900 for those corporations; we didn't get it out of text books, but that has come out of a long experience of teachers after long bitter years.

You need not put Mr. Moore and Mr. Felmley and any of the rest of the people on the grill to find out whether the teachers are back of it. I tell you they are. There are 4,000 elementary teachers in Chicago, whom I represent, the Chicago Teachers' Federation and I am here to tell you they are back of all this program and they know what it means, and they know it means they can get revenue for the schools, it means decent salaries for themselves, and they can get it from sources that are not going to burden the people, the parents of those children that come out of the homes where their suffering is as great from the economic conditions as it is for the teachers themselves. Those teachers understand these things. They have been studying it from the children. They come into the homes and hearts and lives of the teachers, that is where we are getting our information and experience, and that is why this thing means so much to teachers, they live it. You gentlemen will make a mistake if you think anybody put something over on the State Teachers' Association last December in Springfield. They did not. Neither did Mr. Moore, or Mr. Felmley or any others of those teachers. Those teachers meant that when they sat here and that was

adopted; I know many of those delegates and I know they are teachers who did know what they were doing. I am perfectly certain they know, and we also know what they mean in terms of practical experience for every item that is in there. I could show you, for instance, at the same time the teachers' salaries were cut we found out that the railroads, the year they cut down the salaries of the teachers, the railroads increased their capitalization $140,000,000.00, their dividends $10,000,000.00, and they decreased their taxes $250,000.00, one-quarter of a million dollars, enough to pay all the county superintendents in this State on the salary schedule fixed by the legislature in 1919; and today after twenty years, what is the situation? We find there are $426,000,000.00 book value of the Public Service Corporations in Chicago, and I am leaving out the Electric Light Company because there was no value put upon it by the Public Utilities Commission, and that those same corporations are paying taxes on $164,000,000.00; there is $262,000,000.00 difference between the value fixed for paying rates on service and for the valuation fixing the rate on which these corporations pay taxes.

You cannot have any lesson stronger than that. You do not need any books on economics to understand that; you don't need any Henry George to tell you. We have these teachers' salaries out on the one side, living below the bread line, with their salaries cut in two and then they see this spectacle; we read in the paper last Wednesday morning a week ago, that the Finance Committee of the City Council met the night before and voted to ask the firemen and policemen and other men employed by the city to take a vacation of a month without pay; that is what happened twenty years ago when they cut the salaries of the teachers; what do you think they are going to do? The Finance Committee has met since then, at least they have recommended this, to put a license fee on fruit dealers, on drug stores, meat markets and grocery stores, and then of course, these fruit dealers, and the druggists, and the grocer will pass that on to the teachers and the firemen and the policemen; in this way they will pay their one month's salary over again. Is not that a grim joke to play on them? When they go to the drug store to get medicine for their sick child and the price is raised they will pay so much out of their month's salary, and it will help pay it to them.

Why should the City of Chicago be compelled to do that when it has vacant property that is being held for speculation which the people of the City of Chicago are increasing in value by their activities and we are not allowed to take it into the public treasury?

I read a statement by Mr. Wacker coming down on the train in which the writer prophesied that if the people of Chicago would put through the boulevard link that the property on Randolph and the adjacent streets would be increased in value. It is true. It has greatly increased in value. Who increased it? The people of Chicago paid for that improvement. Who will get it? The private owners. These are the things, out of these experiences comes such a constructive program as this. Gentlemen, I predict that twenty years from now if the conditions are not changed, but drifting as they are drifting, and the teachers leave the teaching profession as they are doing by the hundreds, going into anything and everything that offers them a living wage, and we have to bring in the kind of people they are bringing into the schools now, where, as Mr. Mortenson himself says the only qualification that we can demand of a substitute teacher is that they have a telephone, and they have a thousand of those people ready to take the places of teachers who are sick. We have as many as ten teachers in some of the schools absent in one day because of the heaviness of the war work and the regular work of the school on top of it; they have broken the teachers down, and those teachers are out of school and then we have these substitutes who are not trained. With those teachers drifting out and the other kind drifting in, what will happen? Do you think you will have teachers in the system capable of fundamental thinking that will prepare a program of that kind? That meant thought. That meant the best economic thought that this or any other nation ever produced. It is well

worth the thought of a Convention. It is constructive, and one hundred years from now it will be recognized as a wonderfully constructive program to have been presented to a Constitutional Convention by teachers. It will go down in history, I am sure.

Now, I want to say just a word about a few other things in Chicago; the mules in our city pay more taxes than franchises. The poor mules that are nearly gone from our streets. We could give you example after example of that kind of thing, but do you need any better illustration? We teachers know that the taxing of personal property is so archaic it does not even belong to the tallow candle age, it belongs before the Ark. I know that some of you people are very much in favor of classifying personal property. We are not in favor of that personally. None of that convention have gone on record in favor of that. We do not want the Constitutional Convention to provide simply for the classification of personal property, with the idea in the minds of any one that certain classes will be exempt in whole or in part, and certain other classes will pay; if you exempt it all it would not accomplish the result that we know should be accomplished by the power of a Legislature to classify all property. There is a bill before Congress—I don't know anything about its chances, but as David Harum says, "Do unto the other fellow what he will do unto you, only do it fust." Whether this Convention gives to the Legislature the power to classify all property, the Federal Government is going to do it. There is a bill before the Federal Government that proposes to raise $1,500,000,000.00 of taxes on land values. They are paying at this time only $500,000,000.00 on such land values as are mixed up in incomes, and that proposition is before Congress and it is being pushed to raise $1,500,000,000.00, and whether this Convention gives the power to the Legislature to take any of those values or not for local and for State taxes, the Federal Government may reach out and get it when it feels like it, and if it should take twice that amount it would not be taxing the land values as heavily as industries, and there are men today, not the men who are working with their hands, but with their minds, the men who are managing the industries, that are tired of this tax on industry, and they are the men who are asking Congress to do that, they are pushing that, and they are doing some pushing, too, believe me, and I would not be surprised before this Convention adjourns to find that a land value tax has been passed by Congress, and we may be in the plight that our Legislature is without the power to classify property and that we may not be able to get those land values and the Federal Government be in the position to take them. That would be a very sorry plight.

I did not make the speech I had intended to make. I knew you had some doubt in your minds as to what was in the minds of the teachers that adopted this resolution. I thank you for your courtesy and attention.

THE CHAIRMAN. Are there any members who wish to ask Miss Haley any questions?

Mr. HULL (Cook). I am not sure whether I understand you, Miss Haley, with reference to classification; you are opposed to classification of intangibles alone but in favor of classification of all property?

Miss HALEY. Yes, sir, I was opposed to that amendment in 1916.

Mr. DEYOUNG (Cook). May I ask a question?

Miss HALEY. If there is a question you have not already asked me,

Mr. DEYOUNG (Cook). I have not asked you any tonight. You had something to do with this printed letter that is addressed to Governor Lowden?

Miss HALEY. I verified the valuations, yes, sir.

Mr. DEYOUNG (Cook). The letter contains a statement that the Governor is responsible for the personnel of the State Public Utilities Commission, and responsible for the existence as well as the personnel of the State Tax Commission, does it not?

Miss HALEY. I believe it has some such statement as that, inasmuch as he asked the legislature to abolish the State Board of Equalization and appointed the other.

Mr. DEYOUNG (Cook). In other words the Governor is charged with the responsibility for the acts of the State Tax Commission, as well as the personnel of that Commission in this communication?

Miss HALEY. I presume that is the implication that is warranted.

Mr. DEYOUNG (Cook). Isn't that clearly the implication that is warranted from the letter, Miss Haley?

Miss HALEY. Yes, sir. I think that the implication that is warranted is, that the Governor did ask and did urge on the legislature to abolish the State Board of Equalization on the ground that it was not a responsible board and nobody could be held responsible for it.

Mr. DEYOUNG (Cook). And substitute for it the State Tax Commission.

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). There is an inference here that the State Board of Equalization is responsible to the people which the State Tax Commission is not.

Miss HALEY. Is that statement in there?

Mr. DEYOUNG (Cook). Substantially that: "To take the place of the old State Board of Equalization which was elected by the men and women of Illinois," and for whose work you said no one person could be held responsible, therefore urged the change.

Miss HALEY. Isn't that the statement the Governor made at the time?

Mr. DEYOUNG (Cook). I don't know what statement the Governor made, but you made this statement. You had something to do some years ago, Miss Haley in collaboration with Miss Goggin in compelling the State Board of Equalization to perform its duty; I believe that was nearly twenty years ago?

Miss HALEY. Yes, sir, nearly twenty years ago.

Mr. DEYOUNG (Cook). Prior to that time the taxation of franchise values by the State Board of Equalization was practically omitted, as you said?

Miss HALEY. On certain corporations.

Mr. DEYOUNG (Cook). Upon the public utilities corporations then in the City of Chicago?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). You draw a comparison here between what you say are values fixed by the State Public Utilities Commission for rate fixing purposes, as compared with the value fixed by the State Tax Commission for taxation purposes upon these several public utilities.

Miss HALEY. The letter says that.

Mr. DEYOUNG (Cook). In the one column you have a total value for rate making purposes of $426,000,000 and upwards, and for taxing purposes approximately $164,000,000?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). And the column is headed by a statement that these figures, the larger ones, were fixed by the State Public Utilities Commission for rate fixing purposes?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). Can you point to a single case, Miss Haley, or the one that happens to be the authority for that?

Miss HALEY. Mr. DeYoung, I have the transcript of the record before the Commission, and if you desire I will get it for you.

Mr. DEYOUNG (Cook). Isn't it a fact that none of those cases were rate making cases.

Miss HALEY. No, Mr. DeYoung. I think the cases were all cases in which the valuations were for rate making purposes, and the $132,000,000 fixed there is a lower valuation than the one named by the surface railways. They claimed $158,000,000 for present valuation of the $200,000,000 in the reports, and the State Public Utilities Commission reduced that to $132,000,000, and the present rate of fares on the street cars in Chicago was based on that $132,000,000.

Mr. DEYOUNG (Cook). To $132,000,000. Isn't it a fact that in none of these cases was there a valuation of the utilities properties that is arbi-

trary, but in two of the cases the values fixed by the city of Chicago by its council were adopted merely for temporary purposes by the Public Utilities Commission?

Miss HALEY. I understand they anounced that. There has been a Supreme Court decision since the rate was established to the effect the said Public Utilities Commission had no right to fix an arbitrary figure, as in this case, without having gone through the process of having actually ascertained and determined the valuation. This is an arbitrary valuation that was not determined after evidence was taken or after the procedure that should have been gone through.

Mr. DEYOUNG (Cook). I am asking the question whether a valuation was made for the purpose of determining, or whether or not it is not true, in two of these cases, the valuation was fixed by the City of Chicago?

Miss HALEY. The fact of the matter is that the people of Chicago are paying fares on the rate that permits interest and dividends to be paid on that valuation.

Mr. DEYOUNG (Cook). I did not ask you that, but I am asking you whether or not the real thing in this column, the figures are correct—can anyone point to any testimony in any case before the Commission in which these figures were fixed as the values of the respective utility properties?

Miss HALEY. Mr. DeYoung, I have the transcript of the record before the Public Utilities Commission when these figures were presented. I have that in my possession, a certified copy of the transcript of the record, and while you may be right in some technical way—I don't know how I should say it—in saying they have not fixed that valuation, the people of Chicago are paying that interest, and the corporations are paying taxes on the other valuation.

Mr. DEYOUNG (Cook). We will get to that in just a moment. We will make that all clear.

Miss HALEY. All right.

Mr. DEYOUNG (Cook). Now, you are familiar with the provisions of the present Constitution with reference to taxation, that of equality and uniformity, you are familiar with those provisions?

Miss HALEY. I am familiar with the Supreme Court decision, the United States Supreme Court decision requiring us to have a uniform method, that the principle of cash value is set aside by the principle of uniformity. Is that what you mean?

Mr. DEYOUNG (Cook). Exactly. So that the courts will not permit taxation to be extended upon the full value of property where it is a well known fact that the practice throughout the State is that all classes are assessed at a very much lower figure.

Miss HALEY. That is not interesting to the people who have to pay rates on one valuation while the corporation pays taxes on the other.

Mr. DEYOUNG (Cook). What I am trying to get at is the fairness and justice of this comparison. Here is a body of men by whom this is to be considered, and I am simply trying to inquire whether under the law, as you understand it, and the writer of this letter understood it, whether it is fair to say that in one column we have figures on which people pay car fares, and in the other column figures which must be taken for the purposes of taxation?

Miss HALEY. Yes, I think as long as the people of Chicago have to pay rates on this valuation and the corporations are permitted to pay taxes on the other valuation, when the laws of this State are very specific and require all property shall be valued at an assessed valuation of one-half or one-third, and when the Constitution provides the way property shall be taxed, I say the teachers of this State have a just complaint to make when this state of affairs exists, and I don't care how it is or how it has come about.

Mr. DEYOUNG (Cook). Wait a minute, I will make my question clear: The teachers' tax case to which you have referred, resulted in the awarding of a writ of mandamus about 1902?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). And that writ was respected by the State Board of Equalization?

Miss HALEY. It was; the Federal Court dissolved its injunction.

Mr. DEYOUNG (Cook). The assessment was extended on that valuation.

Miss HALEY. Yes; on that valuation that is named here.

Mr. DEYOUNG (Cook). You show here $122,000,000 as against one corporation?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). So we may get the facts, if there are any other facts with reference to this, that matter was taken into the Federal Courts?

Miss HALEY. Yes; Judge Grosscup gave an injunction.

Mr. DEYOUNG (Cook). It did not stop with Judge Grosscup.

Miss HALEY. It went to the Supreme Court of the United States.

Mr. DEYOUNG (Cook). And the Supreme Court of the United States said, applying the provisions of the Illinois Constitution, that there must not only be a uniformity, and then the State Board of Equalization in response to that writ set the assessment aside, did it not?

Miss HALEY. Yes; but there was a dissenting opinion by Chief Justice Holmes and two others, in which he said it was the first time in the history of the United States that the Federal Courts had interfered with the taxing authority of a state, in any way, and that it was also the first time in the history of the United States Supreme Court that an order had gone out that they should not tax according to law one class of property, because, forsooth, certain other classes had been allowed to evade their taxes, and that was the time when the corporations came in before the United States Supreme Court and said it was unfair to tax these corporations because the teachers had not gone out and got the railroads and brought them in, and they showed how the railroads had been avoiding their taxes for years and years, and they did not require any evidence, nothing but the statement, and it seemed to him they did not show sufficient grounds for complaint on that score, and I don't think that is a fair Supreme Court decision.

Mr. DEYOUNG (Cook). Did or did not a majority of the Federal Supreme Court decide as I have stated?

Miss HALEY. Yes; but that does not make it divine, sacred or necessarily binding.

Mr. DEYOUNG (Cook). Don't a majority of the Supreme Court make the law of the land in that particular matter by a majority opinion?

Miss HALEY. In regard to whether or not the State Board of Equalization might assess corporations? I don't think so.

Mr. DEYOUNG (Cook). What I am trying to emphasize, Miss Haley, is this: You and I are not going to quarrel as to the fact that the State utilities ought to have been assessed a great deal more than they were, but what I am trying to say is, that when we do have this provision, and when land is assessed 30 per cent, you know as well as I do that the laws of this State and the decisions of the Supreme Court of Illinois and the United States do not permit, whether it is individual or corporate property, to be assessed at its full value. You know that to be the law, don't you, Miss Haley?

Miss HALEY. You mean half the value?

Mr. DEYOUNG (Cook). No; I mean to say that this land which is being used for agricultural purposes and the assessors say that is the full value—you and I may differ about the wisdom of the law—but is it fair, knowing as you do know what the decisions of those courts are, Federal decisions of the Supreme Court, that these utilities ought to be assessed in some fanciful rate making valuation?

Miss HALEY. No; I don't say it should not, I say it should.

Mr. DEYOUNG (Cook). Notwithstanding the opinions of the courts of the last resort, you say it should not be done?

Miss HALEY. Yes, Mr. DeYoung; because I will say they did not try to value the principal thing in that case, which was the element that belongs

to the public. Now, I am going to talk about the fundamental justice to the teachers.

Mr. DEYOUNG (Cook). Miss Haley, will you please confine yourself to answers to my questions?

Miss HALEY. I will be very glad to.

Mr. DEYOUNG (Cook). I am speaking about the law, not what you think ought to be done.

Miss HALEY. You are not speaking about constitutional law?

Mr. DEYOUNG (Cook). I am, exactly, from which you have drawn your facts.

Miss HALEY. You are speaking of the law as made by the court's decisions.

Mr. DEYOUNG (Cook). Of this State, as it now stands, and under which you have drawn your figures as interpreted by the courts of last resort of the State and of the Nation, you have taken your parallel columns under the existing Constitution, have you not, you could not do otherwise?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). You would not be a party to a statement to say that, when it is recognized, as the Supreme Court did in the People's Gas Case in the 268th Volume of Reports, where the State Board of Equalization extended the assessment at 80 per cent and the Supreme Court cut it down when it was proved that property has been assessed in this State at about half of its value, and the assessor assessed its full value. Am I not correct, that you cannot say as a matter of truth that the figures in the first column ought to be taken for the purpose of assessment and taxation?

Miss HALEY. Yes; I can.

Mr. DEYOUNG (Cook). Notwithstanding the decisions of the courts?

Miss HALEY. They don't bother me a bit.

Mr. DEYOUNG (Cook). If that is true, if the decisions of the courts of last resort have no force, then there is no need of continuing the discussion, Miss Haley?

Miss HALEY. I suppose not.

Mr. DEYOUNG (Cook). Do you deny, just as a matter of law, that a public utility is allowed something in the way of valuations for rate making purposes, not only to take care of reasonable return to the investor, but to provide for replacements currently, not after the plant is worn out, and that is the element of the rate making valuation which ought to be assumed in fixing figures for taxation, can't you grant that?

Miss HALEY. No; I know we are paying rates on one valuation and they are paying taxes on another, and that does not look right to me.

Mr. DEYOUNG (Cook). In spite of what the courts may say about it?

Miss HALEY. No; that does not alter the fact.

Mr. DEYOUNG (Cook). The implication here is, that the Governor, who is responsible for the legislature's acts, has not treated the schools fairly, and in fact more or less has been said about it in the papers.

Miss HALEY. I don't know anything about that.

Mr. DEYOUNG (Cook). Well, now, if there is any scrap about the way the taxes ought to be paid, it applies to the schools, likewise to the city, and every other public body.

Miss HALEY. To the extent of $500,000.00.

Mr. DEYOUNG (Cook). The schools are all treated equally, or equally unjustly treated?

Miss HALEY. We are more interested in the schools.

Mr. DEYOUNG (Cook). There is a loss to the State, to the county, and other taxing bodies because of this.

Miss HALEY. Proportionately.

Mr. DEYOUNG (Cook). You know in 1917 the Fiftieth General Assembly provided for the State Revenue Fund, $16,000,000, and the same legislature appropriated $4,000,000 for the common school fund; that sum was as great, or exactly the same, as had been appropiated by the preceding General Assembly under Governor Dunne. Now, in 1919, the session of last

year, the appropriation of the State revenue fund was $14,000,000 for State purposes, 12½ per cent less, or $2,000,000 less than it had been in 1917.

CHAIRMAN GALE. Mr. DeYoung, may I ask a question there for the purpose of the record: You said the State revenue fund. To which particular fund do you refer?

Mr. DEYOUNG (Cook). I am using the words of the appropriation bill.

CHAIRMAN GALE. For fear of the possible confusion, with regard to the education fund, or otherwise?

Miss HALEY. You mean the total.

Mr. DEYOUNG (Cook). I mean the State revenue fund; in 1917 the appropriation was $16,000,000, four million for the common school fund; two years later, or a little less than a year and a half ago, the State fund, not the common school fund, was reduced to fourteen million, or a reduction of 12½ per cent in face of the rising cost of labor and material, and the same session that reduced the State fund by 12½ per cent increased the common school fund from four to six million, or an increase of fifty per cent. Is that the fact?

Miss HALEY. I do not know anything about it, I assume that it is right.

Mr. DEYOUNG (Cook). Well, I am asking you a legal question, because I know you had more or less to do with it—to get it clear, Miss Haley, you believe in the classification of personal property?

Miss HALEY. Of all property.

Mr. DEYOUNG (Cook). Not limited to personal property?

Miss HALEY. No.

Mr. DEYOUNG (Cook). You say that farm lands and most of the intangible property of the State escapes taxation altogether?

Miss HALEY. Did you say that farm lands are not assessed?

Mr. DEYOUNG (Cook). No, I say that farm lands are assessed at less than their actual value and the assessor calls it the full value. The fact that most of the property in the State escapes taxation altogether, in spite of this, you still say that these figures which were put in this letter on which your name appears——

Miss HALEY. No, my name does not appear in that letter.

Mr. DEYOUNG (Cook). Your name appears at the top on the letter head.

Miss HALEY. But not in the letter.

Mr. DEYOUNG (Cook). That is why I assumed you were familiar with it. Now, notwithstanding the courts have so held, as I have stated, you say to this body that these utilities should have been assessed last year for the values you say were adopted for rate making purposes?

Miss HALEY. Yes, Mr. DeYoung.

Mr. DEYOUNG (Cook). In other words, it would be entirely just, as the companies have complied with the law, it is entirely just you say, to make a discrimination against these particular companies in favor of all other companies and all other property owners in the State?

Miss HALEY. I do say that. Am I permitted to say why?

Mr. DEYOUNG (Cook). Yes, you may.

Miss HALEY. Because otherwise it would not be fair to have such a case as this: there is an element in these corporations value, a large element, which is the element of the street value, that is the privileges which they enjoy in the streets of Chicago. When we started out to compel the assessment of these corporations away back in 1900, they were paying taxes on a valuation of thirty-five millions, which represented the value of the physical property; that which escaped taxation was the intangible element. Do you know that?

Mr. DEYOUNG (Cook). That was twenty years ago.

Miss HALEY. Now, the discrepancy in this appropriation at that time——

Mr. DEYOUNG (Cook). I am speaking of this, Miss Haley.

Miss HALEY. That is not quite the same total, but I want to say to this Constitutional Convention it should give power to the legislature to classify property, and we would like to see a classification of two elements that enter into value there; I do not think that any of the physical value of these corporations should be taxed. I think you are paying a premium in capitalizing the value of the privilege of the streets. You tax the value of the physical property and you fail to get that other element. What we ought to have is a tax on this. These streets have increased in value because of the work of the people of Chicago, and they are allowed to collect money from them, and that money belongs to the people, and it ought to go back to the people. Let the corporations go free of taxation for their physical property; then there will be no inducement to them to perjure themselves and issue watered stock, because all the income would have to go back to the public. I say it is fair when there is such a large intangible element as $262,000,000 the difference there, it is fair, when that represents the value of the streets.

Mr. DEYOUNG (Cook). I will ask you this, Miss Haley: You know what the law requires in the way of assessing of capital stock of corporations?

Miss HALEY. Yes, and that is another thing I think is an injustice.

Mr. DEYOUNG (Cook). First of all, you take the market value of the bonded indebtedness, don't you?

Miss HALEY. Yes, sir.

Mr. DEYOUNG (Cook). And the second item, you take the market value of all the stock, that is true?

Miss HALEY. Yes.

Mr. DEYOUNG (Cook). You add those two.

Miss HALEY. No, I want to qualify that. I don't understand that this Tax Commission is hampered any more than the State Board of Equalization was by being required to follow that absolutely. They may take any evidence from any sources available.

Mr. DEYOUNG (Cook). A corporations' franchise privileges could not be more than its entire bonded indebtedness and the market value of its capital stock?

Miss HALEY. That was the rule of the old State Board of Equalization.

Mr. DEYOUNG (Cook). That is the rule of the Constitution as interpreted by the Supreme Court of Illinois and the United States Supreme Court.

Miss HALEY. In the railroad cases.

Mr. DEYOUNG (Cook). In the railroad and in the utility cases. Now, you may say these valuations are two hundred million, but the market value of the securities is readily ascertainable; the entire bonded indebtedness, what that is worth on the market, as well as the entire stock issue, and when you have those two together you have the value of that corporation and all its privileges, for all it would sell on the market; when the tangible property of that same corporation is assessed, equalized by the assessing body, and that is deducted from the sum of the other two items, you have the capital stock as assessment.

Miss HALEY. Yes, except in the case of the elevated, that was taxed with the railroads.

Mr. DEYOUNG (Cook). Yes, it is slightly different but it does not alter the principle any, it is assessed by the State board. When you take the sum of bonded indebtedness, deduct the assessed valuation of the tangible property, then you have under the law the assessed value, the full value of the capital stock assessment, haven't you, to be extended under the law? It is a mere mathematical demonstration.

Miss HALEY. That is exactly what the United States Supreme Court did not sustain the State Board of Equalization in doing.

Mr. DEYOUNG (Cook). I think you will find that is exactly what the State Tax Commission had done.

Miss HALEY. That was not what was done in one case, Judge Grosscup said specifically——

Mr. DEYOUNG (Cook). But you are talking about the State Tax Commission, and that has existed for less than a year.

Miss HALEY. I won't argue about it.

Mr. DEYOUNG (Cook). You will admit this body, as well as the State Board of Equalization, is governed by the law and the Constitution?

Miss HALEY. Why have them put such a high value for rate making purposes and compel the people of Chicago to pay rates on those valuations?

Mr. DEYOUNG (Cook). Because they have not fixed any such rates for rate making purposes.

Miss HALEY. Aren't they compelling the people to pay these rates?

Mr. DEYOUNG (Cook). No, these figures are not correct, Miss Haley, but what I wanted to get at was this; you are making comparisons which are unfair. I hold no brief for anybody at all. My only connection with these matters has been to fight these public utilities, in every case I have been in, I have been on the other side, but when I do know the facts we ought not to say that these figures should be taken, when the actual figures are ascertainable, as a matter of record.

Miss HALEY. The people of Chicago are paying service rates on the valuations that are given there.

Mr. DEYOUNG (Cook). That is not correct.

Miss HALEY. You mean that is incorrect information.

Mr. DEYOUNG (Cook). Yes, this first column is incorrect.

Miss HALEY. You challenge those figures?

Mr. DEYOUNG (Cook). I do most surely.

Miss HALEY. You and I have a private quarrel; I think I will have to take this up with you privately; I have the transcript of the record, and on that I rely.

Mr. DEYOUNG (Cook). May I ask you also to ascertain the market values of these four utilities, of their bonds and capital stock, and deduct the assessment upon their tangible property, then find the difference, then divide it by two, and then if you have any quarrel, come back.

Miss HALEY. That would not be square to the people of Chicago; if these figures are not absolutely accurate, if you want that for the basis of taxation—if those values are not absolutely accurate—for instance, take the gas company; there were four or five valuations, ninety-nine, ninety-eight and one hundred million; they are substantially correct, however, for rate making purposes.

Mr. DEYOUNG (Cook). You have said that whatever this Constitution may provide, whatever the courts have said, you still maintain, although the courts have said it cannot be done, it would not make any difference, they should be assessed on higher figures.

Miss HALEY. No. I don't, but I say this, if that is to stand as the value for taxation, then that ought to be the value fixed for rate making purposes; there ought not to be two values.

Mr. DEYOUNG (Cook). I do not care to go into that now, you ignored some of the elements.

Miss HALEY. If that be the law, if they permit that condition of affairs, if that is the interpretation of the law by the courts, then there is something wrong. They should not permit that condition of affairs, and I say it is wrong, I don't care where the trouble is, that is a wrong condition of affairs and it should be righted. The people of Chicago are paying rates on those values and those corporations are paying taxes on other values, and I say it is a wrong condition of affairs.

Mr. DEYOUNG (Cook). We are talking about taxation now.

Miss HALEY. That is taxation. When the public utilities corporation is allowed to collect fares on one valuation and pay taxes on another valuation, there is something wrong; that is taxation; the people of Chicago have to pay the exorbitant rate.

Mr. DEYOUNG (Cook). I believe that is all I care to ask Miss Haley.

CHAIRMAN GALE. Are there any other questions?

Mr. O'BRIEN (Cook). I would like to ask Miss Haley a few questions: I have received hundreds of letters from friends of the schools demanding the repeal of the Juul law, indicating a belief in the minds of the writers of those letters that the Juul law is responsible for all the ills that the school system is heir to. Now, while I don't quite agree with the thought expressed in those letters, don't you believe that the trouble and the law rate is due to lack of vigilance and energetic application of argument and lack of cooperation between the officials and others connected with the schools, in the failure of the schools receiving a proper recognition of their real needs.

Miss HALEY. Well, Mr. O'Brien, you have asked me a very difficult question. I was not present at the time the conferences were held in Springfield, and I just saw one of the members of the conference committee leave the room, who was present; I don't know whether the others are here or not, as so many have gone now, but I have been informed by those who were there; we had a conference with the Governor on February 2d; a committee of Chicago teachers appeared before the Governor then and asked him to call a special session of the legislature for the purpose of extending the rate to Chicago that the other places had. He did not call a special session, however. During that discussion, this happened: We discussed all the things that happened that you referred to, as to whether we were energetic enough or not; the Governor said the legislature had fixed this rate of $1.80 under the old valuation, $1.20 under the new, and we said we did not understand it that way because we were told that you said you would not stand for any more than $1.20; we said we understood, we were informed by those on the committee, and there were a half dozen people present, that you said you would not absolutely stand for any higher rate, and if the legislature passed any higher rate, you would veto the bill, and there were people present when the Governor said it, and we said to him the members of the legislature reported that to the teachers of Chicago, and the members of the teachers' committee reported it, and we heard it on all sides; the officers of the board of education informed the teachers that the Governor would not stand for any higher rate; he said, "If they all said I said that, I guess I did say that." We feel under the circumstances that no amount of diligence would have resulted in any higher rate because we were absolutely convinced that the Governor would not stand for any higher rate.

Mr. O'BRIEN (Cook). It is hard to believe that the Governor would deny what the public schools needed had the argument been made strong enough.

Miss HALEY. Since you bring the matter up, I know this happened: We had a change in the board of education during the session of the legislature; one board went out and the other board came in; prior to that, to the going out of the old board and taking of office of the new one, I do know that the officials of the board appeared in Springfield; one of them was the attorney for the board and I think the secretary, and they fixed the rate lower than that passed by the legislature, and said that was sufficient for Chicago for the next five years. Now, the teachers are not responsible for that statement, Mr. O'Brien.

Mr. O'BRIEN (Cook). Isn't it a fact that the increase of sixty cents in the rate produced two million dollars in revenue?

Miss HALEY. It produced $7,500,000.00.

Mr. O'BRIEN (Cook). And the two million dollars in the State distributable fund, about 36 per cent produced an increase of seven hundred thousand additional, or figures in that neighborhood.

Miss HALEY. When we had an increase from $1.20 to $1.80, that was a 60 per cent increase, and I figure it is $7,500,000.00 for 1919.

Mr. O'BRIEN (Cook). It was two million dollars additional; what I want to get at if you had received the maximum rate of 13⅓ cents higher than the Juul law allows you, would that have sufficed for the schools in Chicago?

Miss HALEY. I don't know, would it have paid the salaries the teachers requested, do you mean that?

Mr. O'BRIEN (Cook). Yes.

Miss HALEY. The schedule they asked for was twelve hundred dollars minimum and twenty-five hundred dollars maximum, I don't know for sure.

Mr. O'BRIEN (Cook). You mean seven million dollars.

Miss HALEY. Yes, sir.

Mr. O'BRIEN (Cook). The 13½c additional, that would have brought two million dollars additional revenue, would that be better?

Miss HALEY. I can calculate it better on the old basis; that would be about two million five hundred thousand; yes, I think it would have done it.

Mr. O'BRIEN (Cook). All these letters are of the same tenor; they demanded the repeal of the Juul Law without offering anything in lieu of it.

Miss HALEY. We are not in this particular instance asking the legislature to abolish the Juul Law, but to raise the minimum; we realize under existing conditions it would not be wise to abolish the Juul Law.

Mr. O'BRIEN (Cook). I am glad to get that admission out of you, that 13½c would be sufficient for your needs; and that is the reason I mentioned the lack of diligence on the part of friends of the school, if they had demanded the two dollar rate, the Juul Law could be amended.

Miss HALEY. You say "Lack of diligence on the part of friends of the schools." You certainly cannot blame the teachers.

Mr. O'BRIEN (Cook). I am not blaming anyone, I am seeking information.

Miss HALEY. They said the low rate would do for five years, and they were making the calculations on the salaries paid in 1917.

Mr. O'BRIEN (Cook). That is prior to the war times. Don't you believe that after all, increasing the aggregate valuation is the only solution of the problem that confronts the school and not the increased rate?

Miss HALEY. I do, I absolutely feel we have got to find more property and have got to increase valuation on the property we have got now or find other sources of revenue, increase the aggregate; I think it would be disastrous to keep on increasing the rates, and that is why we are so anxious to find other sources of revenue.

CHAIRMAN GALE. Are there any other questions of Miss Haley?

Mr. BARR (Will). You said you were not in favor of classification of personal property?

Miss HALEY. No, all property.

Mr. BARR (Will). I don't understand what you mean by classification of all property.

Miss HALEY. Real estate and personal.

Mr. BARR (Will). In what manner?

Miss HALEY. Well, for purpose of their exemption, in whole or in part.

Mr. BARR (Will). Have a different rate as to different classes of property?

Miss HALEY. Yes, a different rate.

Mr. BARR (Will). You would not classify personal property also with classes of real estate.

Miss HALEY. Yes, I would, franchises.

Mr. BARR (Will). I am just trying to get your view of it.

Miss HALEY. Franchises are a form of property that we never ought to exempt from taxation, and I think we should tax franchises up to the full income that those franchises yield to the corporations holding them.

Mr. BARR (Will). Is it your idea that other forms of intangible property, such as trust deeds, notes and bonds, and things of that sort, should not be taxed?

Miss HALEY. If the stock represents the value of the public service corporations and you tax the franchises of that corporation, I think it is wrong to tax the stock, if it represents the value, but any other kind of corporation that has no public privileges, I think it should be taxed.

Mr. BARR (Will). Take real estate aside from public service corporations, take farms with mortgages on them, what would be your idea about that, that the mortgage should or should not be taxed?

Miss HALEY. Should not be taxed.

Mr. BARR (Will). And the bonds issued by corporations other than public service corporations?

Miss HALEY. I would not say the bonds of public service corporations should be taxed; I think that the capital stock of a public service corporation over and above the tangible property, that should be taxed and taxed at a higher rate than certain other kinds of property, but not the bonds and stocks.

Mr. BARR (Will). What do you mean by certain other kinds of property?

Miss HALEY. Well, I think for instance, the property of a manufacturing concern should not be taxed. I do not believe in taxing improvements. I feel, as Mr. Felmley does, that you should not disturb the social order. I believe we should begin to take the taxes off industries and abolish industrial taxes.

Mr. BARR (Will). At the present time, would it be your idea that the Constitution should provide for classification of property?

Miss HALEY. I think we should leave that to the legislature.

Mr. BARR (Will). Well, the legislature cannot classify.

Miss HALEY. What we would like to see done is that that power be given to the legislature; if you will give the legislature that power, and leave them free to classify property, public sentiment can then be educated so that the demand will come to classify the property as the public is ready for it.

Mr. BARR (Will). Do you think that in the beginning probably the legislature would classify both real estate and personal property, and that ultimately the solution that you have in mind would be worked out?

Miss HALEY. I think so, Mr. Barr; it would work out very slowly, just as it has done in other places.

Mr. BARR (Will). Do you think it would ultimately get down to the tax on the ground and the intangible value of the public utilities?

Miss HALEY. Yes, including the railroads, and some others; there are other public utilities as well as transportation.

Mr. BARR (Will). I understand.

Mr. BRANDON (Kane) resumed the chair.

CHAIRMAN BRANDON. Are there any further questions of Miss Haley?

That concludes the portion of the program dealing with revenue. We will now hear from Mr. W. B. Owen, the principal of the Chicago Normal College. I do not know whether, in view of the lateness of the hour, Mr. Owen would like to speak.

Mr. W. B. OWEN. I should like to express the gratitude of the State Teachers' Association; I represent some of the teachers of Cook county. We are very grateful for this attentive hearing, and I am sure that the program of the State Teachers' Association has been presented fully and that you have had as good a time in hearing it as we had in presenting it, and we can go home and say that we were listened to in the meeting. I am also sure that we are encouraged to keep on going to such a Convention as this, and the legislature, and I say to you that the best safeguard of the future of education in Illinois is the fact we have an organization of twenty thousand teachers who have the courage and the intelligence to tell the people of the State of Illinois what the schools need, so I thank you in behalf of the association, for your courtesy and for the long day, and I promise you that this program we have entered on for the improvement of education in Illinois stretches out into the future as far as any of us can see. I thank you.

Mr. BRENHOLT (Madison). I move that the committee do now rise and report progress. Motion prevailed.

The President in the chair.

Mr. BRANDON (Kane). Mr. President, I wish to report that the Committee of the Whole has met, reports progress, and asks leave to sit again.

(Granted.)

Mr. BRENHOLT (Madison). I move that we adjourn until tomorrow morning at ten o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken until Thursday, March 11, A. D. 1920, ten o'clock a. m.

THURSDAY, MARCH 11, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Tuesday, March 9, 1920, having been placed on the desks of the members on yesterday is now subject to correction. There being no corrections proposed, the Journal of March 9, 1920, will stand approved.

Whereupon the Convention proceeded upon the order of Special Orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

The Committee on Military Affairs having presented its report, with a proposal on the subject matter considered by said committee, being Proposal No. 339, with the recommendation that the same be passed and said report having been ordered to lie on the table and be printed;

Your Committee on Rules and Procedure recommends that said report be taken from the table and placed on the general orders of day.

(Report adopted.)

Whereupon the Convention further proceeded upon the reports of select committees.

Mr. GORMAN (Cook). As chairman of the committee appointed by you to attend the funeral of our late Delegate Michael F. Sullivan, I desire at this time to make a report.

According to Resolution No. 7, adopted by the Convention on Wednesday, January 14, 1920, the President of the Convention appointed a committee to attend the funeral of our late co-delegate, Michael F. Sullivan, of the Second Senatorial District, the members of which were the following:

Messrs. Gorman, chairman; O'Brien, Rosenberg, Michaelson, Corcoran, Potts, Kunde, Pincus, Iarussi, Beckman, Traeger, Latchford, Davis, Wolff, Charles Woodward, Frole, McEwen, Michal, Sutherland and Dupee.

Your committee desires to report that it attended the funeral of our said late co-delegate, Michael F. Sullivan, in the City of Chicago, on the 15th day of January, 1920, and that Delegate Potts of the committee accompanied the funeral cortege to Logansport, Indiana, and that the following expenses were incurred by your committee, as evidenced by statements hereto attached:

Schiller, the florist, for basket of roses	$50.00
O'Hara and Kehoe, for two automobiles at funeral	25.00
Expenses of Delegate Potts to Logansport, Indiana, and return, railroad fare, meals, etc	10.00
Total	$85.00

Pursuant to the following report, I have submitted bills as above outlined to your Committee on Expenditures and Supplies for payment.

Respectfully submitted,

JOHN J. GORMAN, *Chairman.*

Mr. LINDLEY (Bond). I move the adoption of the report.

THE PRESIDENT. The committee has reported that certain expenses were incurred in attending the funeral of Delegate Sullivan. The Conven-

tion heretofore, pursuant to the rules, made an appropriation, as the chair understands it, by a roll call vote, to pay expenses such as were incurred by this committee. The president does not understand under the rules therefor that a roll call will be necessary under the report submitted by Delegate Gorman.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of first reading of proposals, motions and resolutions, unfinished business, and general orders of the day.

Mr. GREEN (Champaign). I move this Convention adjourn until next Tuesday morning at ten o'clock.

THE PRESIDENT. Before putting that motion, the chair begs the indulgence of the Convention to make a short statement. Under the rules, proposals were to be introduced by the first of March; a few proposals have been offered under unanimous consent since that time; I think that practically all proposals to come before this Convention are now before the Convention and have been referred to the proper committees. One committee, the Committee on Military Affairs, has already reported. The report of the Committee on Military Affairs has been placed upon the General Orders and will come up for consideration and the Committee of the Whole in the regular order of business after the formal business of the session is transacted.

I want to impress upon the delegates to this Convention the absolute necessity of attending all next week and the week thereafter on all committee hearings and at all committee hearings in order that the work of the Convention may be facilitated by the formulation at an early date with all reasonable dispatch of the reports of the several committees.

In all probability, so far as the chair can see now, with the exception of next Tuesday, the meetings of the Convention will be for the transaction of its formal business, but the great important things to be done are to be done in the committees, and the committees in my judgment, should devote every possible hour next week to the consideration of the matters before them.

I respectfully suggest, therefore, to the delegates to the Convention, that next week should be devoted to earnest and serious consideration of the various proposals before them, and if possible to the formulation of some reports which may be presented at a very early date.

Mr. GREEN (Champaign). I now move we adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention until Tuesday, March 16, A. D. 1920, 10 o'clock a. m .

TUESDAY, MARCH 16, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, Reverend Edward E. Hastings, pastor of the Central Presbyterian church, of Joliet.

THE PRESIDENT. The Journal of the Convention for Wednesday, March 10, 1920, was placed on the desks of the delegates at the last session of the Convention and is now subject to correction. There being no corrections proposed to the Journal of March 10, 1920, the Journal of that date will stand approved.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals.

Mr. TRAEGER (Cook). I would like to ask the unanimous consent of the Convention to introduce a proposal.

THE PRESIDENT. There being no objection, the consent is granted.

Mr. FROLE (Cook). I ask the unanimous consent of the Convention to introduce a proposal.

THE PRESIDENT. There being no objection, the consent is granted.

Whereupon the Convention further proceeded upon the order of first reading of proposals, second reading of proposals, motions and resolutions.

Mr. IARUSSI (Cook). I offer the following resolution, and move its adoption:

RESOLUTION No. 24.

WHEREAS, Many good citizens of the State of Illinois are descendants of persons born in Italy, and

WHEREAS, The Italian language has been the medium of expression in literature and music for centuries, and

WHEREAS, As a cultural agent the Italian tongue is comparable with any of the languages of modern Europe; therefore, be it

Resolved, That it is the sense of this Convention that the State Superintendent of Public Instruction should be advised and through him the educational system of the State should be advised that instruction in the Italian language should be offered in the better high schools of the State, particularly in those within whose jurisdiction there live a considerable number of persons of Italian extraction.

Mr. GORMAN (Cook). I move that the resolution be referred to the Committee on Education.

(Motion prevailed.)

THE PRESIDENT. Before passing to the General Orders of the day, the chair would state that in view of the death of Senator Curtis a vacancy has been occasioned in the chairmanship of the Committee on Legislative Department. Under the rules it becomes the duty of the chair to fill that vacancy. In view of the unwritten parliamentary practice, Mr. Shanahan (Cook) the ranking member of that committee, will succeed to the chairmanship of the Committee on Legislative Department and the chair therefore appoints Mr. Shanahan as chairman of that committee. (Applause.) The committee as constituted now, consists of 14 members; there is therefore a vacancy to be filled; to fill that vacancy the chair designates Delegate Barr, of Will county. (Applause.)

There is also by reason of the death of Senator Curtis a vacancy in the Committee on Rules and Procedure; Delegate Paddock, of Sangamon

county, is appointed to fill the vacancy in the Committee on Rules and Procedure. (Applause.)

Whereupon the Convention further proceeded upon the order of Special Orders of the day.

THE PRESIDENT. On last Thursday a resolution was passed placing on the General Orders of the day the report of the Committee on Military Affairs. Under the rules the Convention will now resolve itself into the Committee of the Whole for the purpose of considering the report of the Committee on Military Affairs.

Mr. GALE (Knox). In view of the fact that the delegates to this Convention have not had sufficient time to study Committee Proposal No. 339 and to determine what their action should be before going into the Committee of the Whole on that, I move that the Convention do now adjourn.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, March 17th, A. D., 1920, 10 o'clock a. m.

WEDNESDAY, MARCH 17, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Thursday, March 11, 1920, was placed on the desks of the members of the session yesterday, March 16th, and is now subject to correction. There being no corrections proposed to the Journal of March 11, 1920, the Journal of the day will stand approved.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure to which was referred the following resolution, to-wit:

RESOLUTION No. 22.

Resolved, That after the first day of March, 1920, except as specially otherwise ordered, the Convention meet at 10:00 o'clock a. m., on each day, except Sunday and Monday.

Mr. GREEN (Champaign). This report has to do with Resolution Number 22; that is the resolution offered by the delegate from Schuyler (Jarman) which reads as follows:

"That after the 1st day of March, 1920, except as specially otherwise ordered, the Convention meet at ten o'clock a. m. on each day except Sunday and Monday."

The Committee on Rules and Procedure has given earnest consideration to the subject matter of this resolution, and indeed, in the preparation of the rules it was with some difficulty that a conclusion was reached with reference to the subject matter of the adjournments from day to day. This resolution would require the Convention to sit Tuesdays, Wednesdays, Thursdays, Fridays, and Saturdays of each week. I need not mention how that would effect the convenience of the delegates, but indeed that perhaps should not enter the merits of the adoption or rejection of this resolution. This morning the Committee on Rules and Procedure invited the delegate from Schuyler (Jarman) to appear before the committee and discuss the report on this resolution. It was very frankly stated that his purpose was to adopt some convenient schedule to which the delegates could conform. Upon consideration of all these arguments your committee was of the opinion that the Convention should not at this time definitely determine for the succeeding weeks what program it should follow. For instance, if there should be extended debate on the report of the committee which is before the Convention today for consideration in Committee of the Whole, it might necessitate from day to day adjournments of this week until perhaps Saturday; on the other hand, if the debates are concluded early it might well justify an adjournment even on Thursday, so that the business of the Convention on each week would probably have to establish the program for that week. However, the committee on rules believed that attention should be called and emphasis laid upon the necessity of the work of the committees devoting diligently as many days each week as possible to the work before committees

in order that the Convention may have before it in the form of reports from the committees the work which it must do.

The President of the Convention has upon different occasions emphasized the necessity of the committees devoting as much time as possible to the work before them, respectively. The committee on rules believes that it is entirely proper and it therefore determines and now suggests and earnestly asks that regardless of the sessions of the Convention that there should be committee meetings at least three days each week, and if possible on Fridays of each week. It is very desirable to avoid the congestion and hurry that has characterized the close as a general rule, of the sessions of legislative bodies in Illinois, and it is earnestly hoped by the President of the Convention, the Committee on Rules, and I am sure of all delegates that each proposition shall have all the time that its importance deserves, at the same time we do not believe we should at this time attempt to lay down any hard and fast rules, but should leave them sufficiently elastic for the action of the committee from day to day, the days upon the week upon which it might determine to adjourn.

We believe, therefore, that this resolution should not pass, and have so reported. (Applause.)

Mr. CARLSTROM (Mercer). I do not rise for the purpose of insisting upon the adoption of this resolution, but to offer some suggestions which occurred to me while listening to the remarks of the delegate from Champaign (Green). It is highly important that we proceed with as reasonable a measure of diligence as possible in an attempt to reach the ultimate conclusions of the deliberations of this assembly, and it is important that the committees at least meet in session, but the gentlemen of the Convention undoubtedly know, especially those who have had experience with the legislature here, that we will not have committee hearings unless we have a session of the Convention. I think it perhaps might be questioned that we should meet five or six days, but I think it should be the spirit of this Convention that we meet, if we can find anything to do, unless there is some excellent and justifiable reason, the number of days called for in this resolution, and being in session we will be sure that our committees will be doing something.

I have met with various committees on various propositions and I have found, and I presume it is common to us all, that we are anxious still to hear from this or that group of men, and perhaps some one man in particular who will appear before this Convention and committees of it at least six times. I think personally we ought to begin to do something and if it requires sitting five days a week I am willing to sit the five days a week or six days a week. I think the spirit of the Convention should be progress, substantial and definite, so at some end to accomplish something. The people are beginning to wonder what we are doing, they are watching the Convention and wondering when we are going to produce something concrete and definite for them, and I believe in view of that we should begin to cut out field days and that we should begin to deliberate upon the matters we are going to decide, because the responsibility will rest upon us, the members of this Convention, as to what we will do, and not upon what some one may tell us, and I am in favor of the resolution. I do not want to take the position that we should adopt the resolution, but I am in favor of its spirit, and I think we should begin to accomplish something.

The very thing that is suggested by the gentleman from Champaign, Mr. Green, the hurry at the finish, when warm weather comes along we will have our own private affairs, and we will hurry and then we will have a congestion of the calendar of this Convention, and we will rush things through, but if we meet as much as possible, as many days as possible throughout each week we will find time and take time to discuss and talk about each proposition and give it the attention and time it should receive. In that way we will avoid the very congestion which has been suggested, and while I do not think we should bind ourselves down to a certain number of days each week I think we ought to, if possible, regardless of whether we adopt this resolution or not, avoid the adjournment on Thursday until Tuesday,

and let's get down and do the job we are sent to do the best we can do it. Whether we adopt this resolution or not, I think we should remain here as many days in the week as we can find anything to do, I think we should get down to business.

Mr. FIFER (McLean). It seems to me that the time has not come for appointing five days a week for the work of this Convention. I think we have lost nothing by meeting only four days a week, I believe we have gained. The time has not yet come for the real work of this Convention, and will not arrive until the committees, the several committees of the Convention begin to make their reports and then I shall be in favor of increasing the number of days to five, but the work of the Convention now is simply to hear proposals and to make a few motions. The real work of the Convention is being done outside, in discussing with our constituents and discussing with one another on railroad trains and hotels, and finally the time will come when we will get into our heads as to just what we want to do, and then it will take but a little time to do it. If we meet five days in the week it seems to me it would be almost a waste of time now. I think we can employ ourselves to much better purpose than to do so. (Applause.)

Mr. JARMAN (Schuyler). I introduced this resolution, for two reasons: The first reason was, that we might have a definite understanding made by the majority of the delegates as to what days we should meet. If it is the sense of the Convention to meet four days, then let us have that understanding so that we can arrange our private affairs at home in view of that arrangement. Under present conditions we come here Tuesday morning and we do not know how many days we are to be in session; therefore, we cannot make any arrangements as to our private affairs at home, and we can make no appointments with any assurance that we will be able to meet them until Saturday, so I think it will be very much helpful to all of us in our personal affairs to have at least a definite understanding, whatever that understanding might be, whether it be three, four or five days. Now, the other reason I had in offering this is that the work of this Convention may go forward in the committees. I recognize that this Convention has very little to do on the floor of the Convention in session, but I take the position that we will never be able to hold the committees here and have committee meetings unless we have sessions of the Convention. That has been the history of all Conventions I have read about. The New York Convention met at eight o'clock Thursday evenings and also on Mondays, Tuesdays, Wednesdays, Thursdays, Fridays and Saturdays. The object of the meeting on Saturday was to hold the members at the Convention in order to have a committee meeting on Friday, and the experience of that Convention was that unless you had a session on Saturday morning you had no committee meetings on Friday, and I think that is the experience of perhaps most deliberative bodies. There is another reason to why we should devote more time to the work of the Convention, and that is that this Convention is costing the State of Illinois, as I am advised, about $1,000 a day for every day in the week, and if we delay on account of our private affairs two or three days a week we are imposing a tax of $1,000 a day for about three days that ought not to be imposed upon the people. Now, these are briefly the reasons why I introduced the proposal that we ought at least have some definite understanding, and then after two months we should be able to proceed with sufficient energy to carry out the work of this Convention.

I have had meetings of committees during days when the Convention was not in session and on none of those days has there been a quorum except in one hearing in one of the committees. How could anything be done along that line? We have done very little of anything, and will not in my opinion do anything until we have a sufficient number of sessions of the Convention which will necessitate the meeting of the committees on those different days. I do not believe that it is the sense of the delegates to this Convention that we should sacrifice the State's interests for our personal interests, and I do not believe they will leave the Convention or leave Springfield if we have certain days for the meeting of the Convention. These are

the reasons why I introduced the resolution. Now, personally, I would be very glad to meet two or three days a week. I recognize we are all busy men; if we were not busy men we would not be here, probably, but I think above that is our duty under our oaths, at least it is my duty under my oath to meet here every day that we can do any good, and we can do good every day that we sit here.

Mr. GREEN (Champaign). It was my careful purpose in stating the report of the committee on rules that the debates and record of this Convention be kept clear of anything that might partake of a character that would be embarrassing or to the regret of any member in the Convention, but without reference to the attitude of the committee on rules, it seems to me that the suggestions which have been made and have found a place in the record of the proceedings of this Convention calls for reply.

I believe that I speak the sentiment of every delegate of this Convention when I say that he would resent the charge that two or three days a week away from Springfield and among his constituency, among the great people of the State of Illinois whom he represents, and from whom he should take some counsel is not wasted, but whether it be true or not, that the 200 representatives of the millions of people in Illinois are spending a thousand dollars a day of the State's money which might be spent by attendance in this Convention hall by remaining in their respective homes and in the cities from which they came, I believe that the State of Illinois never made any better investment. I believe also that the chairmen of the committees of this Convention have the right fairly to have this record show that it is not true that these committees have done nothing for this Convention and gotten nowhere. I believe it is the sense of every delgate of this Convention that much has been accomplished and that the exchange of ideas in the committee rooms has been not only useful but tremendously useful to the ultimate results, and it is matter of common knowledge, and the record of this Convention will so show that there has been diligent, faithful work, and long hours in the sessions of the committees in earnest deliberations upon the great problems which this Convention is to solve; without any disparagement to the importance of the legislative assembly in Illinois, there can be no comparison either with the dignity or with the consequences with which this Convention performs its duty compared to that of a legislative body. It is the earnest belief of the delegates to this Convention that their conduct and the result of their labors spells for a half century of history in Illinois, and if perchance some portion of these busy days be spent in taking counsel with the constituents at home it is time well spent, and after all while the delegates will vote upon this Convention floor, their own sentiments, it will be extremely fortunate if among the great men of this State they may have the benefit of advice, counsel and wisdom, and too this Convention is taking the common course which has been taken by every great Constitutional Convention in this Union. It requires some time to throw into the mass of tangled threads which must be straightened out in a definite manner, by way of proposals, procedural changes and actions which must characterize of necessity the opening and conducting of the early part of the Convention, but having gone through those stages and having now before these committees, and being now in earnest consideration of the subgect matter of the proposals which are to come before us, and being charged and possessed with a high feeling of responsibility for the tremendous consequences which will follow the ultimate decision upon these problems, they are entitled to that careful deliberation which should come in proportion to the importance of those matters, and it was the purpose of the committee on rules to leave to the good judgment of the delegates of this Convention upon the floor the matter of determining for themselves the orderly procedure of their business, the time at which they might wish from week to week to adjourn, and it has not been the private business of the delegates to this Convention which has, in my judgment, moved them to take adjournments upon any days in any week. I believe that every man who has been elected as a delegate to this Convention appreciates that this is the biggest single job he has, and I therefore feel that I express the sentiments of the

individual delegates when I say that there is no private business that has been allowed to interfere with the discharge of our duties, and that it will not be allowed to interfere with it. As time goes on we will make our own order of business and give to this great work that deliberation and time it deserves. (Applause.)

(Report adopted.)

Mr. BRANDON (Kane). The Committee on Education begs leave to submit a partial report.

MARCH 16, 1920.

To the President and Delegates of the Constitutional Convention:

Your Committee on Education, to which was referred Proposal No. 84, being a proposal to provide for the non-sectarian reading of the Bible in the public schools, begs leave to report that it has considered this proposal.

And your committee recommend that in as much as other proposals on the same subject matter have been referred to the Committee on Bill of Rights, and in as much as it appears to your committee that the subject matter properly belongs in the field of activity of that committee.

Your committee respectfully recommend that Proposal No. 84 be re-referred to the Committee on Bill of Rights for final consideration and ultimate report.

(Signed) EDWARD J. CORCORAN,
MICHAEL ROSENBERG,
MICHAEL IARUSSI,
ARCHIBALD J. CAREY,
WILLIAM S. GRAY,
RODNEY H. BRANDON, *Chairman*,
W. H. BECKMAN,
GEORGE A. BARR,
H. M. DUNLAP.

Mr. JARMAN (Schuyler). What proposal is that?

THE PRESIDENT. No. 84.

Mr. JARMAN (Schuyler). What is the purport of that?

THE PRESIDENT. Can the delegate from Kane, Mr. Brandon, answer the delegate from Schuyler (Mr. Jarman)?

Mr. BRANDON (Kane). Proposal 84 is one of a series of proposals providing for the reading of the Bible in the public schools; the Committee on Education has considered this matter and has determined within its own mind, at least, that this is not an educational question but a question of public policy. Some of the proposals seeking to include the Bible in the curriculum of the schools were referred to the Bill of Rights Committee and some were referred to the Committee on Education; the two committees met jointly and heard those who cared to appear on the subjects and at the conclusion of the hearing it was agreed that the subject matter should be concentrated in the one committee, and it is thought that the proper place for the consideration of that question is the Committee on Bill of Rights.

Mr. JARMAN (Schuyler). I simply wanted to make an inquiry; I introduced a proposal on the same subject, which is not number 84, and it was referred to the Committee on Education. I wanted to know whether both proposals were referred to the Committee on Bill of Rights.

Mr. BRANDON (Kane). In answer to that question I will say that the proposal eminating from Mr. Jarman included a good deal of subject matter other than the question of the Bible in the schools; it involved the question of testamentary trusts in school funds and other matters that the committee did not feel it wished to release, and for that reason did not refer back the proposal of the gentleman from Schuyler (Jarman).

(Report adopted.)

Mr. MICHAELSON (Cook). I ask unanimous consent for the introduction of a proposal.

THE PRESIDENT. There being no objections unanimous consent is given.

Mr. DUNLAP (Champaign). I ask the unanimous consent to introduce a proposal.

THE PRESIDENT. There being no objections consent is given.

Mr. MICHAL (Cook). I ask the unanimous consent of this Convention to introduce two proposals, Mr. President.

THE PRESIDENT. There being no objections consent is given.

Mr. JARMAN (Schuyler). I ask the unanimous consent of the Convention to introduce a proposal which I ask to introduce by request of the Committee on Municipal Government.

THE PRESIDENT. There being no objection consent is granted.

Whereupon the Convention proceeded upon the further order of first reading of proposals, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. Under general orders of the day, pursuant to the rules, the report of the Committee on Military Affairs is placed upon the calendar. The Committee on Military Affairs recommends the adoption of the proposal in lieu of several proposals referred to that committee. Pursuant to the rules the Convention will now resolve itself into a Committee of the Whole for the purpose of considering the report of the Committee on Military Affairs. As chairman of the Committee of the Whole for that purpose the chair designates Delegate Beckman (Cook) chairman of the Military Affairs Committee. (Applause.)

(Mr. Beckman presiding.)

CHAIRMAN BECKMAN. Gentlemen of the Convention: The Committee on Military Affairs has concluded its efforts and has brought to you the result and the conclusions that it has arrived at. We have not been ambitious to conclude our work for the purpose of being relieved of duty, but we have indeed been ambitious in seeing that that other committee, the Committee on Phraseology and Style, have something to begin working on.

Under the rules the first order of business will be the reading of these recommendations. Mr. Secretary, will you read the report of the committee?

PROPOSAL No. 339.

RESOLVED, *That the following shall become a part of the Constitution of Illinois:* SECTION 1. The militia of the State of Illinois shall consist of all able-bodied male persons, resident in the State, between the ages of eighteen and forty-five except such persons as are now or hereafter may be, exempted by the laws of the United States, or of this State.

Sec. 2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States.

Sec. 3. All militia officers shall be commissioned by the Governor, and may hold their commissions for such time as the General Assembly may provide.

Sec. 4. The militia shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same.

Sec. 5. The military records, banners and relics of the State, shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the General Assembly to provide by law for the safe keeping of the same.

Sec. 6. Persons having conscientious scruples against bearing arms, may be exempted from military service by the General Assembly, but no person so exempted shall be exempted from service in any capacity that the Governor shall declare to be non-combatant.

CHAIRMAN BECKMAN. The Committee on Military Affairs, gentlemen, considered all the proposals introduced, as well as article 12 of the old Constitution. It has made no recommendations for a change in any of the old Constitution except on section 6. Sections 1 to 5 are just the same, are identical, and are copied from the Constitution of 1870. I make that merely as a general explanation. I would like, however, to hear a little discussion upon this article as suggested. As a general argument I would like to hear first from Admiral Moore of Decatur.

Mr. MOORE (Macon). Perhaps I ought not to discuss military matters before this Convention. I did not want to be a member of the Military Committee on account of the fact that I am a professional military man and I realize the prejudice that exists even among the most patriotic people of the

United States against a military man and against military training, but I would like to plead for myself that there were three generations of volunteers in my family ahead of me, and I became a regular by accident, and I have a son who happens to be a regular, and who has given his life to his country as long as it last. We happen to be Irish by extraction, and as I look around and see the green bouquets that adorn the button holes of the delegates, I want to remind you that you never heard of an Irishman that was a conscientious objector. (Laughter.)

Now, I am particularly pleased to see that every citizen of the State of Illinois from the age of 18 to 45 is a member of the military department of the State of Illinois, and I would like to see every single man go into training at a proper time so that we might all be soldiers and realize what it is to be a soldier.

The military life as I get it is disliked very much by the people of this country, and it is disliked largely because most of us do not know anything about it. You know we are very much given to dislike the things we do not know anything about, and be afraid of the things we do not know anything about, but I want to tell you that military training is the training of all training that can be given to the citizens of the country. In the first place it teaches patriotism, it teaches respect for the flag, it teaches devotion to the institutions under which we live. We have two distinguished secretaries at the head of the military department of the government of the United States; both of them were class-mates. The Secretary of the Navy a few months after his appointment became convinced that naval officers were honest men and the Secretary of the War became convinced a few months after his appointment in 1916 that the officers of the army were patriotic citizens, even willing to die for their country, and you will find that this is the spirit of all military men, and they do not always ask, and rightly they should not ask, whether the country is right or not in its contention, but the fact is to them that the country wants something and they are always ready to get it for the country at whatever personal sacrifice they may have to undergo.

Military training teaches industry; it teaches uprightness; the very foundation of military life is truth; no man can get anywhere in the military service who is not a truthful man; it teaches obedience without servility; you hear a great deal about obedience and the fact that military discipline is arbitrarily imposed. There is nothing in it. The military discipline is the discipline of law, and when a man yields obedience to his superior officer in the military service he consciously yields obedience not to the man, but to the law that puts the man in the place, and there is nothing that is more self respecting and there is nothing more honorable than the obedience that is imposed by military law. Necessarily military training inculcates courage, it inculcates fearlessness, though I can remember on several occasions in my life when I have been pretty thoroughly scared. I know that the sense of duty, the sense of obligation enables a man to go to the front and to take his chance without question. It not only inculcates courage but it inculcates pity, tenderness. Any man who remembers the words of Captain Philips at Santiago, "Don't cheer boys, the enemy is dying," cannot fail to appreciate the chivalry of military life. It teaches care of the body, cleanliness of the body and cleanliness of the soul. You cannot put a boy into any school where he will be taught higher ideals than he is taught in military service; you need not fear to impose military training upon any of the youths of this country on account of any moral terpitude that he may accumulate in the military training. I tell you there is no time in military life for immoral practices, and there is no place for them. That some military men and some soldiers are guilty of immoral practices from time to time may be true, but they are guilty of those things when they are freed from military discipline, when they are out on pass, or when they are away from the restraints of the command, just as your boys are exposed to temptation in the City of Springfield or any other city you live in when they happen to get away from the influence of father and mother.

I do not know of any better testimony that can be brought out as to the

value of military training than what I heard in Decatur on Monday. I saw over there Reverend Rompel from the Great Lakes Naval Training Station who came to talk to the Rotary Club. He told them that after several years of experience he was prepared to say that he would rather trust a boy of his in the military camp or naval camp so far as the moral influences were concerned than on the campus of any university in the United States, and I tell you his statement is true.

I had the honor of commanding a training station for some time and a distinguished judge from the State of Illinois happened to be a guest in my house. He came there absolutely opposed to the navy and everything touching it and all military propositions, but after watching the operations of that training station for several months he said to me, "If I had a boy and I wanted him well trained right here is the place I would send him to be trained." I tell you, gentlemen, you need not fear at any time to send a boy to an army or navy training station on account of the influences that may surround him. You need not fear militarism. Militarism is a frame of mind of politicians; it has nothing whatever to do with the military life or military training or military strength. Soldiers never have brought on a war, sailors never have brought on a war, but the wars of this world have been brought on by civilians, by men in the civilian government, and wherever militarism exists, it exists in the minds of the people who have the control of the government or the country in which it does exist. Take little Switzerland that through all the storms of the past five years was able to guard her borders and to protect her neutrality and keep her peace, while all around her, absolutely encircling her were her neighbors at war, and she lived in a state of neutrality; that was because she had taken every man that was able to bear arms in her country and train him to be a soldier, and train him to be a real soldier, not a militant, and she was ready to say to the people surrounding her, "I want to be at peace with all of you, but any man that crosses this border with hostile intent, down goes his meat house."

You cannot make the United States a militaristic country; no matter how many soldiers we have in this country you cannot make them militaristic unless the people of the United States become militarist themselves, and the fact that a man has been trained to bear himself properly in walking, that he has been trained to hold his country above everything else, will not in any sense tend to militarism unless the people themselves want to invade some other country.

We have not had but one case of militaristic outbreak in this country, and you all remember that, and that was brought about by politicians moving soldiers into disputed territory in the hope of provoking a weak neighbor to resent it. The soldiers were merely the instruments of the government in that case.

To be a soldier, to be a member of the militia is to be a patriot. We have no use in this State or anywhere in the United States for the man whose conscience prevents him from defending his country. Your conscientious objector always is willing to take advantage of the sacrifices of the soldier, of the men who fight, and you never find any of them declining any of the benefits that come from war. If I had obeyed my first impulse there would have been a very different reading to article 6 of this proposal, but I take this satisfaction in article 6 that while it provides for the exemption of the conscientious objector from the actual business of fighting it compels him to take the place of somebody else who is willing to use a gun and to be as of much help as possible for the support of the government.

I don't want to take up any more of your time, gentlemen of this committee, but I merely wanted to outline a few facts and call your attention to a few things in connection with military service with which I am pretty sure you are not familiar, most of you, and I thank you for your attention. (Applause.)

CHAIRMAN BECKMAN. The Secretary will read Section 1.

THE SECRETARY (Reading). "Section 1. The militia of the State of Illinois shall consist of all able bodied male persons, resident in the State,

between the ages of eighteen and forty-five, except such persons as now are or hereafter may be, exempted by the laws of the United States, or of this State."

CHAIRMAN BECKMAN. Gentlemen, is there any discussion of this section?

Mr. TANNER (Clay). I move you, gentlemen, that section 1 of this proposal now become Section 1 of Article 12 of the new Constitution. Section 1 is identical with section 1 of the present Constitution on military affairs.

Mr. HAMILL (Cook). I suggest that you modify your motion somewhat; it may be that the article you referred to on military affairs will not be article 12 of the coming Constitution, and if you will amend your motion that it may be included——

Mr. TANNER (Clay). I so modify the motion.

(Section stands.)

CHAIRMAN BECKMAN. Mr. Secretary, will you read Section number 2.

THE SECRETARY (Reading). "Section 2. The General Assembly, in providing for the organization, equipment and discipline of the militia, shall conform as nearly as practicable to the regulations for the government of the armies of the United States."

Mr. TRAUTMANN (St. Clair). I would like to ask the chairman a question: Is it your opinion, Mr. Chairman, that Section 2 does not prevent the General Assembly if it sees fit in the future to provide for a State constabulary in addition to the so-called militia as we use the term?

CHAIRMAN BECKMAN. My understanding of that is this, that the legislature has inherent power to pass any act that it sees fit that is not prohibitive either by the State or the Federal Constitution, and therefore the legislature has full power in my opinion, and in that opinion I am sustained by others, to pass any act which belongs along the lines of police powers, or otherwise, not in conflict with it.

Mr. TANNER (Clay). I move that Section 2 become Section 2 of the new Constitution on militia.

Mr. TRAUTMANN (St. Clair). I desire to say by way of explanation that I asked the question so your answer would get in the record that it was the understanding of this Convention that that particular section did not prevent the legislature in the future from establishing a State constabulary.

(Section stands.)

CHAIRMAN BECKMAN. Mr. Secretary, please read Section 3.

THE SECRETARY (Reading). "Section 3. All militia officers shall be commissioned by the Governor, and may hold their commissions for such time as the General Assembly may provide."

Mr. NICHOLS (Ogle). I move that Section 3 stand as the article in the military part of our Constitution.

(Motion prevailed.)

CHAIRMAN BECKMAN. Please read Section 4.

THE SECRETARY (Reading). "Section 4. The militia shall, in all cases, except treason, felony, or breach of the peace, be privileged from arrest during their attendance at musters and elections, and in going to and returning from the same."

Mr. DAVIS (Cook). I submit the following amendment to Section 4 and move its adoption:

AMENDMENT No. 1.

Strike out Section 4 as drafted and substitute in lieu thereof the following: The members of militia shall in all cases, except treason, felony or breach of peace be privileged from civil arrest while in performance of military duty and under military orders.

Mr. DAVIS (Cook). The present section was drafted to meet the situation and the conditions of the militia as it then existed. For the most part the work of the militia consisted in answering muster. The members of the militia were given protection under the Constitution while attending the muster and actually going to elections to elect the officers of the militia; since 1870 the work of the militia has expanded, and it has been doing more work than merely attending musters. The election of officers in the militia has been abolished by law. To meet the situation as it now is and to give protection to members of the militia while in the performance of their duty and carrying out the orders of the State, I have drafted an amendment which will protect members from civil arrest while in the performance of military duty, under military orders, excepting in cases of treason, felony or breach of the peace. It would read as follows:

"The members of militia shall in all cases except treason, felony or breach of the peace be privileged from civil arrest while in performance of military duty, under military orders." The effect would be to concentrate the authority in the particular arm of the State under which the members of the militia are working. When a citizen of a State is called under arms in uniform he is subject to the orders of the Governor, Adjutant General, courts martial, and all other elements and business and machinery provided by the military establishment of the State. There should not be any conflict at any time between civil and military authorities."

I may add, Mr. Chairman, as the result of experience, I know there has been that conflict in the past; some cases have had to go to the Supreme Court, and the Supreme Court has laid down the rule in a number of cases that civil authorities cannot interfere with the military authorities in the case of an individual member of the militia while in the performance of his duty.

Mr. MICHAELSON (Cook). May I ask whether Colonel Davis appeared before the military committee and suggested this amendment?

Mr. DAVIS (Cook). I plead guilty and throw myself upon the mercy of the delegate from Cook (Michaelson). I did not appear on account of the conflict of dates in the meetings of two committees. My apologies to the members of the Convention.

CHAIRMAN BECKMAN. You will state also you were a member of the Military Committee?

Mr. DAVIS (Cook). Yes, there was another committee in session when this was reported, and that is the reason I was not there.

Mr. MICHAELSON (Cook). It seems to me that substituting an entire section for the work of the committee on an amendment introduced is a very serious matter, and rather than persist in the amendment it seems to me that the gentleman should ask that the whole matter go back to the committee in order that he might have a hearing upon this question. For that reason, Mr. Chairman, I move that the amendment lie upon the table.

Mr. LINDLY (Bond). I wanted to make this suggestion, that if this should apply here, then in all future considerations of questions in Committee of the whole where amendments were offered it would be forever referring it back to the committee and I think in the Committee of the Whole is the proper place to determine the question of amendment.

Mr. HAMILL (Cook). As I understand the motion to lie upon the table is not in order when we are in Committee of the Whole.

Mr. WOODWARD (Cook). It seems to me that until such time as some member of the particular committee that submits this proposal makes an objection similar to that made by the delegate from Cook (Michaelson) it is not for this committee to consider an objection of that character. I take it that unless some member of the committee who has seriously considered this subject sees fit to make some objection of that character, which to me appears to be purely technical, and could only serve, as has been suggested by Judge Lindly, to perhaps embarrass and confuse us later on in matters of greater importance; it seems to me the motion to lie on the table should receive no consideration at the hands of this body.

CHAIRMAN BECKMAN. The point of order is well taken.

Mr. HAMILL (Cook). I might say that I am in sympathy with the suggestion that the question is of sufficient importance that it should be considered by the Committee on Military Affairs; it seems to me the orderly way in which that could be accomplished is this. We can proceed to discuss other sections proposed by the Committee on Military Affairs, passing this for the time being. Then the committee can report progress, report to the Convention that it has not passed upon this section, and the Convention can then refer this section to the military affairs, re-refer it; if we defer the further discussion of this section until the Committee of the Whole has acted on those sections it can adopt, then we can proceed in that way.

CHAIRMAN BECKMAN. I do not understand under rule 48 that the Convention can refer it back to the committee.

Mr. HAMILL (Cook). The Committee of the Whole cannot but the Convention can unquestionably refer it.

Mr. CARLSTROM (Mercer). I think we should dispose of this as we go along. I was fortunate in being able to hear General Dickson and Colonel Sanborn address the Committee on Military Affairs, where this very question was gone into, and General Dickson who has had an experience of 22 years, it was his opinion that this provision was ample and sufficient; Colonel Joseph Sanborn of Chicago, also spoke at length before the committee, and he is certainly one of the best posted men on military affairs in the State of Illinois, having been connected with the military affairs of the State for 42 years, and being colonel of the so-called Dandy First, I believe of Chicago, it was his opinion that the present provision was ample and sufficient, and I think in view of the opinions of those two recognized authorities that we can safely adopt the committee's report; it also occurred to me that there might be a limitation that we did not have now, if we adopted that language, and I believe we should vote unfavorably upon the motion and adopt the report of the committee, because I believe you would all have reached the same conclusion if you had listened to General Dickson and Colonel Sanborn's remarks, both of those men of course being well posted on the subject and both having addressed the committee at length.

Mr. DAVIS (Cook). There is certainly no intention on my part to shape the course of the debate along the lines of presenting to this Convention the decision on the question of whether my judgment or General Dickson's or Colonel Sanborn's judgment should prevail. I yield to no one in my admiration for the gentlemen whose names have been mentioned. I fail to be convinced, nevertheless. It has been suggested that we should leave these words of the present section 4 as they are for fear there might be a conflict with the present provision of the Bill of Rights. What does Section 4 say now: "That while the civil authority is supreme in this State members of militia shall be exempt from arrest during attendance at musters and elections," I may be wrong in asking that this Convention incorporate into this section any provisions which would exempt members of the militia from civil arrest during the performance of military duty, but it is certainly foolhardy to say the least, to reincorporate in our Constitution an exemption during the attendance at musters and elections when neither exist. I do not know of any such thing as a muster in the National Guard of Illinois, and if the delegate will pardon me for a personal allusion, I too have for 22 years been in the State Militia. I may tell him that I never attended a muster, and never attended an election in the last ten years, as there are no more elections. I have no quarrel with anyone who does not want to exempt members of the militia from civil arrest, but certainly Section 4 in its present language has no value.

Mr. DAWES (Cook). The whole subject contained in this article has received for weeks the careful attention of the committee appointed specifically for the purpose of considering the subject. That committee has called into conference those men in the State best qualified to advise them upon the subject under their consideration. They now submit their report

and an amendment is made; how that impresses other members of the Convention I do not know, but it appears to me to have merit, and we learn that the members of the committee have never given any consideration whatever to the suggestion now submitted by way of amendment. If we are going to get the full value of the work of our committees it seems to be perfectly right that we should be assured that every meritorious matter should have had their consideration. I cannot conceive upon what principle of parliamentary procedure it may be ruled that this Committee of the Whole cannot refer back to the special committee of this Convention a matter of this kind for further consideration. I do not know why we may not appeal to them for their point of view on this particular question as we would appeal to them for their judgment on every question. The motion to lay the consideration of this question upon the table is in effect merely an expression of our opinion that this important matter submitted to us by the delegate from Cook (Davis) should have their consideration and we have the value of their judgment after such consideration, and I would be in favor of not acting on this amendment until after the committee has had time and opportunity to give it further consideration; such I would understand to be the desire and intention of the delegate from Cook, Mr. Michaelson, in making the motion that it should for the time being lie upon the table. If that is not the correct procedure it would be possible for the chairman of the committee to ask its withdrawal for the time being.

I would perhaps not consider it worth the while to interrupt the committee by saying what I have suggested, were it not for the fact we may have this precise situation with the reports of other committees. It may transpire when we listen to other committees that matters of more importance may not have been presented to the committee and may not have had their consideration, and for the smooth working of debates in the Committee of the Whole it seems to me we should have a procedure somewhat like this by which we may assure ourselves that the matters which are before the Convention by the committees have been thoroughly considered in all their aspects and have been discussed.

Mr. TANNER (Clay). As a member of the Military Committee, I desire to offer the opinion that the suggestion made by the member from Cook, Mr. Davis, as regards the duties here which formerly controlled in the militia, that is, musters and in the election of officers does not control today. There is, however, as he states, various military duties which require the sending out of military details which should be protected from civil arrest. This matter was not submitted to the committee, and I consider it to be of sufficient importance to go back to the committee, and it seems to me that some provision should be made by withdrawal or by resubmission so that the matter can be taken up in our committee.

Mr. GREEN (Champaign). Under the rules governing our deliberations we are confined to certain parliamentary practice, and it would be a sad practice to be referring back matters to committees in order to avoid immediate responsibility for the consideration of the problems that had already been considered, but inasmuch as this matter has not received apparently that due consideration which its importance merits by the committee on Military Affairs, I now move that we rise and report progress.

Mr. SHANAHAN (Cook). This raises a point which it is probably well to decide now, as this may come up in the future. I think that under our rules, that under parliamentary rules that this Convention has the right to recommit, it may refer to another committee, I think that under rule 48——

Mr. HAMILL (Cook). Committee of the Whole——

Mr. SHANAHAN (Cook). This committee has the right to recommit it and the proper motion would be to recommit section 4 and the amendment offered to the Military Committee for further consideration, and I think it can be done under 48.

Mr. DUNLAP (Champaign). If this committee were to make that reference, to whom would the Committee on Military Affairs report, to this committee or report to the Convention?

Mr. SHANAHAN (Cook). To the Convention under the rules, it becomes the Committee of the Whole.

Mr. DUNLAP (Champaign). I think that would involve considerable confusion.

CHAIRMAN BECKMAN. Gentlemen, the question is that the Committee of the Whole do now rise and report progress.

Mr. SHANAHAN (Cook). We have got to make a different motion from that entirely.

Mr. SUTHERLAND (Cook). It is not my understanding that the motion to rise and report progress is anything more than a formal motion. It has been made time and again in this Convention when committees have arisen after a mere public hearing in which no action was taken by the Committee of the Whole at all; it seems to me the motion to rise and report progress is purely a formal motion and does not carry with it the necessity of any action whatever on the part of the Committee of the Whole.

Mr. RINAKER (Macoupin). That may be true, but when the Committee of the Whole does rise and report the chairman of the special Committee on Military Affairs can then ask directions from the House, and the House then will give such directions as it sees fit. It can refer this whole report back on the request of the chairman of the committee for its further consideration. We are only the committee and have no right to rerefer to recommit than the Committee on Military Affairs has the right. It can only be done by the Convention as a whole. It seems to me that the motion made by the gentleman from Champaign (Green) is the correct motion, and then the matter comes into the Convention and the Convention has the power and can act.

Mr. MORRIS (Cook). If it is the desire of this committee that the proposed amendment be recommitted, the proper course of procedure as laid down by probably the best authority on parliamentary law, Mr. Rufus Waples of Ann Arbor, Michigan, that the Committee of the Whole recommend the recommitment of the section desired and rise; I think Mr. Shanahan can read the authority on that proposition, it lays it down correctly.

Mr. SHANAHAN (Cook). I move that the Committee of the Whole recommend to the Convention that section 4 of article 12 and the amendment offered thereto by the delegate from Cook (Davis) be rereferred to the Committee on Military Affairs.

((Motion prevailed.)

CHAIRMAN BECKMAN. Please read section 5, Mr. Secretary.

THE SECRETARY (Reading). "Section 5. The military records, banners and relics of the State, shall be preserved as an enduring memorial of the patriotism and valor of Illinois, and it shall be the duty of the General Assembly to provide by law for the safe keeping of the same."

Mr. MOORE (Macon). I move that section 5 of this proposal be made a part of the Constitution of the State of Illinois.

(Motion prevailed.)

CHAIRMAN BECKMAN. Please read Section 6.

THE SECRETARY (Reading). "Section 6. Persons having conscientious scruples against bearing arms, may be exempted from military service by the General Assembly, but no person so exempted shall be exempted from service in any capacity that the Governor shall declare to be non-combatant."

Mr. GILBERT (Jefferson). I offer an amendment to that section.

AMENDMENT No. 2.

Amend by striking out the words "person so exempted" in the last portion of line 2 and first part of line 3, section 6, and inserting the words "such persons" in lieu of the words stricken. As amended such section 6 will read as follows: Sec. 6. Persons having conscientious scruples against bearing arms, may be exempted from military service by the General Assembly, but no such persons shall be exempted from service in any capacity that the Governor shall declare to be non-combatant.

Mr. GILBERT (Jefferson). The amendment does not change the effect of the section but emphasizes the expression that is used, and I move the adoption of the amendment. As changed it would read: "Persons have conscientious scruples against bearing arms may be exempted from service by the General Assembly, but no such persons shall be exempted from military service."

Mr. DUPUY (Cook). I would like to move as a substitute, namely, that this section and the proposed amendment take the same course as the one a few minutes ago. I therefore move that this Committee of the Whole recommend to the Convention that section 6 and the proposed amendment be referred back to the Committee on Military Affairs for subsequent report.

Mr. LINDLY (Bond). It is just taking the course I suggested would be taken when this first started, that if every time there is an amendment offered to the section that it be referred back to the committee, we will never get through. They can be discussed on this floor as well as the committee, and if we follow this course we will be here all summer and until next Christmas.

Mr. GREEN (Champaign). I move that this Committee do rise and report progress.

Mr. WALL (Pulaski). It is true there is not as much importance attached to this as might be attached to the amendment, namely, to section 4——

Mr. PINCUS (Cook). I rise to a point of order. There is a motion before the Convention.

THE PRESIDENT. Your point of order is well taken. The motion is, gentlemen, that this committee do now rise.

Mr. BECKMAN (Cook). The Committee on Military Affairs reports progress and asks that Section 4 and 6 be recommitted to the Committee on Military Affairs.

THE PRESIDENT. I do not understand that has been asked.

Mr. MILLER (Cook). It is now referred to the Committee of the Whole.

Mr. BECKMAN (Cook). I would ask the Convention the favor of having Section 6 recommitted.

THE PRESIDENT. The Chair is of the opinion that the point of order of the gentleman from Cook is well taken. The Chair is now receiving the report of what transpired in the Committee of the Whole, and that is the only question now before the House, and the report as the Chair understands it is that the Committee of the Whole has had under consideration the report of the Military Affairs Committee and reports progress, and further report that the Committee of the Whole recommends that section 4 be recommitted to the Committee on Military Affairs for further consideration. Is that correct?

Mr. HAMILL (Cook). If I understand correctly, the Committee of the Whole also asks leave to sit again, and that is still before the committee.

THE PRESIDENT. And the Committee of the Whole asks that the amendment submitted by the delegate from Cook (Davis) be referred to the Committee on Military Affairs. The question then is upon the report of the Committee of the Whole recommending that section 4 together with the amendment proposed by the delegate from Cook, Mr. Davis, be referred to the Committee on Military Affairs.

(Carried.)

THE PRESIDENT. The question is upon the further report of the Committee of the Whole and the request of the Committee of the Whole for leave to sit again.

(Carried.)

Mr. BECKMAN (Cook). I would like to ask unanimous consent of the Convention to recommit section 6 with its amendment back to the Committee on Military Affairs.

Mr. HAMILL (Cook). That now has been referred to the Committee of the Whole and must be further considered there.

THE PRESIDENT. The point of order is well taken. It stands on the general orders of the day.

Mr. GREEN (Champaign). I move that the Convention do now adjourn. (Motion prevailed.)

Whereupon an adjournment was taken by the Convention until Thursday, March 18, 1920, at ten o'clock, A. M.

THURSDAY, MARCH 18, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, March 16, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed to the Journal of Tuesday, March 16, 1920, the Journal of that day will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, report of select committees, introduction of proposals, first reading of proposals, motions and resolutions, unfinished business.

Mr. CARLSTROM (Mercer). I think we have had an example now of the delays that will be caused if the bars are left open on the proposition of introducing proposals from the floor further. It seems to me we should agree that matters of this character at this time should be presented by their proponents to the proper committees and there discussed, and I simply want to serve notice that from now on I shall rise and object to the introduction of any further proposals from the floor.

Mr. BECKMAN (Cook). I move that this Convention do now adjourn until next Tuesday morning at 10 o'clock.

((Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Tuesday, March 23d, A. D., 1920, at 10 o'clock, A. M.

TUESDAY, MARCH 23, 1920.

10:00 o'Clock A. M.

The Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain, The Rev. Father L. C. Tholen, of St. Peter and Paul Church, Nauvoo, Illinois.

THE PRESIDENT. The Journal of Wednesday, March 17, 1920, was placed on the desks of the delegates on Thursday, March 18, 1920, and is now subject to correction. There being no corrections proposed the Journal of March 17, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of standing orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in Committee of the Whole today, March 23rd, upon reaching the general orders, namely:

The consideration of the various proposals relating to or affecting the organization of the Judicial Department.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits a further report.

COMMITTEE REPORT.

It having come to the knowledge of your Committee on Rules and Procedure that the Hon. William Jennings Bryan of Nebraska will be in the City of Springfield tomorrow, March 24, 1920, therefore this committee reports the following resolution, and recommends its adoption:

COMMITTEE REPORT.

Resolved, That the President of this Convention be, and he is hereby requested to extend an invitation from this body to the Hon. William Jennings Bryan to appear before and address this Convention at 10:15 o'clock a. m., tomorrow, Wednesday, March 24, 1920.

Report adopted.

THE PRESIDENT. The Committee on Rules and Procedure submits a further report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure has been requested by the chairman of the Committee on Agriculture and the chairman of the Committee on Industrial Affairs and Labor to invite the Hon. Henry J. Allen, Governor of the State of Kansas, who will be in Springfield on Friday, March 26th, to address the Committee of the Whole of this Convention on that date on the subjects of "Land Tenantry and Industrial Courts." Therefore, be it

RESOLUTION No. 26.

Resolved, That the President of this Convention be, and he is hereby requested to extend an invitation to Governor Allen, to address the Committee of the Whole of this Convention on March 26, 1920, on the subjects of "Land Tenantry and Industrial Courts."

Whereupon the Convention further proceeded upon the order of reports from select committee, first reading of proposals, second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

THE PRESIDENT. Pursuant to the resolution just adopted by this Convention, the Convention will resolve itself into the Committee of the Whole for the consideration of proposals before the Committee on Judicial Department. The Chair designates Delegate DeYoung, Chairman of the Committee on Judicial Department to act as chairman of the Committee of the Whole.

(Whereupon the Convention resolved itself into a Committee of the Whole.)

Mr. DeYoung (Cook) presiding.

CHAIRMAN DEYOUNG. Gentlemen of the Committee: The first proposal under consideration will be proposal number 188 introduced by Judge Cutting. Judge George A. Cooke, formerly a member of the Supreme Court of Illinois, chairman of the joint committee on new Constitution of the Illinois State Bar Association and the Chicago Bar Association will speak in support of this proposal. I take pleasure in introducing Judge Cooke. (Applause.)

Mr. COOKE. Mr. Chairman, gentlemen of the Convention, ladies and gentlemen: As your chairman has stated, I have for some time been at work on a labor of love, as it were, as chairman of two committees, one of the Illinois State Bar Association and one of the Chicago Bar Association, who set out to see if there was some plan that the lawyers of the State could agree upon to recommend to this Convention for the article on judicial department. As soon as the Constitutional Convention was determined upon, the Chairman of the State Bar Association selected a committee composed of, I think, thirty-eight members. These were divided proportionately throughout the various sections of the State, a fair proportion being from the City of Chicago and the others from down State. At the same time the president of the Chicago Bar Association appointed a committee composed of seven members of the Chicago Bar Association I think, probably due to a little collaboration on the part of these two gentlemen, they selected me as charman of each of these two committees, with the idea, no doubt, that it was desirable that whatever recommendation was made should come as one that was agreed to by each of these committees. These committees immediately went to work and they have been at work since until a short time ago. The State committee being large and the members being scattered throughout the State, they concluded to work through a sub-committee until time for final action came; the sub-committee of the State committee was appointed and it worked in conjunction with the Chicago Bar Committee. Very many joint meetings were held. At the beginning, as was natural, and as you gentlemen have no doubt found to be true here in your work in committee, and no doubt will later in the Committee of the Whole, there were many divergent views on the recommendations we would make. I think perhaps almost as many views as there were members on these committees, but I am glad to say that each member of the committee came to the work in the proper spirit and we were able after many sessions to get together on common ground. I think without doubt I can say that while this recommendation that they made was finally the unanimous judgment of the members of this committee, it does not in its entirety represent the views of a single member of the committee. That, I take it, will be the final result, no doubt, of your labors here on every article that you will finally adopt; it is not possible that the views of any one man could dominate in a question of this kind. This must be met in the spirit here in the Convention no doubt in all of your work in the same way that it was met by the members of our committee, one member yielding here and another there until finally we were able and are able today to present to you the composite views of these committees. Having arrived at this result in this way, and it being the views of what I might say are representative members of the Bar of this State, we think that this recommendation is entitled to consideration, and we respectfully urge it upon this Convention, after careful consideration,

with the hope that the salient features of it, at least, may be adopted and put into the new Constitution.

It is my desire not to take up any more time than necessary, but I feel that I should go through this article briefly and explain its scope and extent.

It provides first: "The judicial power shall be vested in a Supreme Court, an Appellate Court, a Circuit Court and justices of the peace."

The Supreme Court is given practically the same original jurisdiction that it has under the present Constitution, and it is given the power to prescribe rules of pleading, practice and procedure with the proviso that the Appellate and circuit courts may make such rules as they see fit not inconsistent with the rules of the Supreme Court.

The membership of the Supreme Court is increased from seven to nine, and it is provided they shall be elected from districts; the down State districts are preserved and Cook county is made one district from which three members of the Supreme Court are to be elected.

The Appellate Court has this plan and recommendation; that it be divided in two divisions, one of whom is to sit at Chicago and one at Springfield. The judges of the Appellate Court at present are assigned from the judges of the circuit court, or rather the judges of the circuit court are assigned to duty in the Appellate Court; the difference between the present Constitution and the plan suggested being that during the period of assignment under the proposed plan the judges will have no other duties to perform than that of Appellate Court judges. All the nisi prius courts by this plan are consolidated into one court, to be known as the circuit court. That means a consolidation of the county, probate, city, municipal and the present circuit courts. The circuits are preserved. I am going over this somewhat in detail to give you the reason that impelled us to preserve the circuits instead of providing for separate courts in each county.

The judges of the Supreme Court and circuit courts are elected for terms of 12 years each. The plan contains two provisos, one in reference to the selection of judges of the Supreme Court, that the legislature may provide for the appointment of judges for the Supreme Court, and there is a similar provision dealing with the judges of the circuit court. It provides for the qualification for judges of the courts. It contains the present section on impeachment of the judge; it provides for the appointment of judges to the circuit and Supreme Court to fill vacancies without regard to the length of the unexpired term, and it provides that all courts shall appoint their own clerks and such officers as come in contact with the actual work of the court, such as bailiffs. We have also added to this a suggestion for a section of the schedule to take care of what we deemed to be the necessary changes that must be taken care of by this proposed article in case it is adopted.

Now, I assume that every one of us who has had an opportunity to address you gentlemen in the Committee of the Whole has undertaken to impress upon you the function of a Constitution. I am not going to take any time on that except to say that these committees in trying to arrive at their conclusion have kept in mind the real function that a Constitution is to perform, and we have attempted to eliminate all detail and not get into matters purely legislative in their character, but to confine ourselves to the statement of a basic law. We have, so far as we were able to do so, tried to take advantage of our experiences as a State for the past 100 years, and to base our conclusions and recommedations upon the way in which our courts have functioned and operated since Illinois became one of the states of the Union. We have also tried to benefit by the experience of some of our sister states, but largely we have based this upon our own experience as history and our personal experience have disclosed it in the State of Illinois, so that this is not a detailed or elaborate scheme insofar as we could keep it from being such.

There are four outstanding features of this plan as recommended: (1) It creates a separate and distinct judicial department. (2) It provides for a consolidation of the nisi prius courts. (3) The elasticity of the plan, and (4) It reduces the number of elections. Our previous Constitutions have provided there shall be three departments of State, the legislative, executive and judicial, and then each one has proceeded to make the judicial practi-

cally subservient to the legislative. It occured to the committee that if the judicial department was entitled to be a separate and distinct department in fact as well as in name, one of the first things to do would be to determine how far the judicial department should have control of its own affairs. We, therefore, took up the matter of whether or not the courts themselves should not prescribe rule for pleading, practice and procedure, and after careful consideration concluded that we would recommend to this Convention that that power be vested exclusively in the courts.

In order to carry out the elasticity of this scheme which I shall mention a little more fully later, it was determined that the courts and not the legislature should determine the number of judges necessary in the circuit court and in the Appellate Court, and that power is vested with the Supreme Court, thus making it possible to have the exact number of judges necessary at any time, no matter what the volume of business may be, to transact the business of those two courts. The clerk of a court and the other officers that come closely in contact with the judges in their work, it was thought should be selected by the courts, that greater efficiency would be obtained, and therefore this scheme provides that each court shall appoint its own clerk, its own bailiff and such employes as come directly under the supervision of the court and come closely in contact with the court in doing their work. By this scheme of making the judicial department a separate and distinct department in fact as well as in name, you place the responsibility for efficiency squarely upon the shoulders of the courts themselves. It cannot be said, if this plan is adopted, if there is a lack of efficiency in the courts, that it is due to the courts being hampered by lack of proper action on the part of the legislature, but under this scheme the courts will be responsible for the efficient manner in which they conduct their business and perform their work. The only objection that seems to me could be made would be, we are taking power, we have always considered belonged to the legislature, from the General Assembly.

It seems to be the logical thing to do, if we are creating a separate and distinct department of government; and the only question that anyone could possibly have about this would be whether or not the legislature is better qualified to prescribe rules of practice, pleading and procedure than the courts themselves. There has been a great deal of discussion among the members of the bar and among the citizens of the State generally within the last few years as to necessary and needed reforms in matters of procedure, pleading and practice in our courts, and constantly these matters have been coming before the legislature, but there has been little or no change made and certainly no progress made along these lines. If this responsibility is placed before the court, whose judges know the necessities, it seems to me we would more quickly and more surely have put in practice a proper system of procedure.

Now, as to the consolidation of the courts beneath the grade of the Appellate Court: There is room for a difference of opinion on this question; it has been one that has been much discussed; in other jurisdictions they have like consolidations. I do not know how many proposals have been made to this Convention, but I understand a number of them contemplate a consolidation of these courts. It certainly would tend to efficiency and economy. I will not attempt to go into any detailed explanation of the workings of the present system, but I think we will all concede we have too many appeals, and by consolidating the nisi prius courts we will dispense with a great many of these appeals particularly from the probate to the circuit court and some from the county to the circuit court. The method of making this consolidation is one that might be open to differences of opinion. You will find advocates, as we did in our committee, of a consolidation, and the organization of a court in each county of the State, and advocates of a consolidation and the preservation of the circuits as at present. It seemed to us there was one fact that made the organization of a court in each county inadvisable. Unfortunately we have in the State of Illinois very many small counties; there are four, I believe, having less than 10,000 inhabitants; there are fifteen that have less than 15,000 inhabit-

ants and they travel up slowly to the 60,000 inhabitants, and only 15 counties in the State that have more than 60,000 inhabitants. It seems to me it would be an impractical thing to have one court of original general jurisdiction in every county of the State and have such a court in the smaller counties. I spent most of my life personally in one of the small counties in Illinois, not the smallest county, but one of about 20,000 inhabitants, and I know from my own experience and observation there that if there was a court of original general jurisdiction in that county all the business of that court, all the business that is now transacted by the circuit, probate and county court, could be transacted easily in three months time. If that condition obtains over any considerable portion of the State, it seems advisable that the circuits be preserved and the judges of the consolidated court be elected as now from the circuit. It seemed to the committee after careful consideration that in a consolidated court which would take care of the business which is now disposed of by the circuit, county, probate and municipal courts, that it was necessary to have two grades of judges. That may be a question that is open for discussion and liable to lead to differences of opinion, but it was the judgment of the committee that we should recommend that there should be two grades of judges, and that the jurisdiction of the lesser grade should be defined and fixed by the Supreme Court, and the powers and duties of the judges of that grade be prescribed by the Supreme Court. In that way the lesser grade would no doubt be paid a smaller salary and would perform the lesser duties, or the petty duties as you might call them, of the court; perform the duties, perhaps, of master in chancery and be no doubt in line for selection as circuit judge. Now, we recommend in this proposal that the title of assistant judge be given to this class of judges; perhaps we might have been unfortunate in the selection of that title; it is not a matter of substance, and any title more appropriate could be selected without interfering with the recommendations of the committee. The impression seemed to prevail, which I learned in a meeting in Chicago of the Judiciary Committee that this consolidation was taken to mean that the various courts, except the circuit court were to be abolished. It is not the idea of any member of this committee that this recommendation involved the abolishment of any court; reference was made particularly to the municipal court of Chicago. Now, the committee, I would say, did not have in mind any particular court as it existed now in modeling its plan or scheme, nor did it have in mind any of the personnel of the judges of any one of the courts from the Supreme Court down, but only attempted to devise and offer the best plan we could recommend to this Convention. This scheme allows the consolidated court to take advantage of everything that is beneficient in the present municipal court of Chicago as it is constituted; it does not hamper the doing of any of the things that is being done by that or any other court any more than it abolishes the probate court and extinguishes the jurisdiction now enjoyed by that court. In fact, every jurisdiction enjoyed by any one of the consolidated courts is preserved and the consolidated court can function and no doubt will function in any way in which any one of the consolidated courts are now functioning. So no court is being wiped out, but they are being preserved in a new clothing and given a new individuality, as it were. The plan provides for the dividing of the circuit court into necessary branches, as many as may be deemed necessary in any circuit, and have as many as may be deemed necessary in Cook county: First, I stated the Appellate Court is composed of judges of the circuit court assigned to duty in that court, the number of judges deemed necessary for the Appellate Court to be determined by the Supreme Court. And the Supreme Court will assign judges of the circuit court to duty on the Appellate Court; the Supreme Court will define the appellate jurisdiction of the Appellate Court as well as prescribe rules for practice and procedure.

Now, as to the third outstanding feature, that of elasticity. Under this plan as recommended the membership of but one court is fixed, that of the Supreme Court; the membership of the Supreme Court is fixed at nine

members. Under this plan many additional burdens will be placed upon the Supreme Court; its judges will have a great deal more work to do than at present, and it was deemed advisable to recommend that they be increased in number to nine and that three be elected from Cook county. The membership of the circuit and Appellate Courts are not fixed. The plan provides that at the first election of circuit court judges there shall be four circuit judges elected in each circuit, and thereafter as many circuit judges are to be elected in the various circuits, Cook county composing one circuit, as the Supreme Court may determine, and the Supreme Court may determine whether the number of judges be increased or decreased, specifying the circuit in which the increase or decrease of judges may occur. It also provides for the appointment of additional members of the circuit court at any time the Supreme Court shall certify to the Governor that additional judges are needed, and the Supreme Court also determines the number of assistant judges of the circuit court that are needed from time to time. It is therefore always possible for the Supreme Court to provide for just as many judges as are necessary to do the work of the circuit court and just as many as are necessary to do the work of the Appellate Court, so no matter what the volume of the business may be, there will be a sufficient number of judges to take care of it.

We have recommended in this plan that the assistant judges of the circuit court be appointed. The assistant judges of the circuit court would naturally be expected to do the lesser work of the court and the work that is now performed by masters in chancery. As I stated in another connection, there are a number of small counties in the State where perhaps it might be thought the constant attention of a judge would not be necessary, and that one assistant judge might be able to take care of the routine work, all the probate court work, and such other duties as prescribed by the Supreme Court in two of the smaller counties. These counties might or might not be within the same judicial circuit, and for these and other reasons we recommended the appointment of assistant judges of the circuit court to hold terms of four years each. The plan is so arranged that in 1933 the terms of office of all the circuit judges and judges of the Supreme Court will expire, so in 1933 and every 12 years thereafter there will be one judicial election of all judges of the circuit and Supreme courts. That is not a matter of substance, and it might be one upon which men would differ; suggestions have been made by lawyers outside the committee and by members of the Convention that it might not be advisable to have one election for all the judges in the State, but it would probably be a better plan to divide the election for judges up into sections and have an election for one-third of them every four years. As I see it, that is not a matter of substance; it is a matter of economy, however, and would greatly lessen the expenses of holding elections. I think it is pretty generally thought in the State that, under our present scheme of government, we have entirely too many elections. It was with that in view largely that we made this recommendation.

We make no provision in the article as to salary, except of course that the present salaries of every officer affected is preserved during his term of office. That is left entirely to the legislature. We did make this provision in our recommendation different from the present Constitution: We provide that the salaries of the judges should not be diminished during the term of office. The present Constitution provides that they shall not be increased or diminished. Inasmuch as the term recommended is a long one, 12 years, it was thought it ought to be left to the discretion of the legislature whether or not in that time such economic changes had taken place as to make it necessary and an act of justice to increase the salary of any judicial officer, and in the judgment of the committees it was thought that was a matter that could be safely left to the judgment of the General Assembly.

Now, I do not intend to discuss the section on justices of the peace except to say briefly it was thought that office should be preserved. While

it was shown by investigations made that the justice of the peace did not have the duties to perform that he did in the past and it was not the important office it was in the early days, and a very large proportion of candidates elected to this office did not even qualify, we thought it best to recommend that the justice of the peace be continued, and we have suggested that the plan be that the judges of the circuit court shall fix and prescribe districts in their circuit every four years in which justices of the peace are to be elected, one justice to each district, and they can make the district as large or small as the business warrants or demands, and the justice shall be elected in the district as fixed by the judges of the circuit court. The bailiffs will be assigned by the circuit court to perform the duties of the bailiff and of the present constable.

I have gone through this hurriedly with the idea of not taking up more time than necessary, and I think with this I will conclude what I have to say, Mr. Chairman, and give way to the other speakers. (Applause.)

Mr. TRAUTMANN (St. Clair). Reverting to section 1, the proposal states that the judicial power shall be vested in a Superior Court, Appellate Court, circuit court and justices of the peace; is it the intention of your language to prevent the General Assembly from vesting in a board or commission any judicial or quasi-judicial power? For instance, the Public Utilities Commission, or Industrial Board or Waterway Department? Is it the intention to invest the judicial and quasi-judicial power in the four courts?

JUDGE COOKE. Such as may be exercised by the Public Utilities Commission?

Mr. TRAUTMANN (St. Clair). Would it prevent the commission from exercising the same power in the future as it can exercise today?

JUDGE COOKE. I think there can be no question about it, that this would not interfere at all with the excercise of powers of such a body as the Public Utilities Commission.

Mr. TRAUTMANN (St. Clair). This language is different from the present Constitution.

JUDGE COOKE. Yes.

Mr. TRAUTMANN (St. Clair). You think that this would not prevent these boards and commissions from exercising powers they are exercising today?

JUDGE COOKE. That is my opinion, Mr. Trautmann. I do not regard the Public Utilities Commission as in any sense a court.

Mr. TRAUTMANN (St. Clair). Don't you regard that it exercises quasi-judicial powers, from whose decision appeal can be taken to the circuit court and tried on the record.

JUDGE COOKE. That is true.

Mr. TRAUTMANN (St. Clair). And there tried on the record, no further testimony being taken in the circuit court?

JUDGE COOKE. That is true. In order to make myself perfectly plain, it was not indeed the purpose of these committees to accomplish any such result as that, and if our judgment is wrong in that particular, then there should be a change in this section to carry out our intention.

Mr. TRAUTMANN (St. Clair). I was not questioning that, I was simply asking for information.

Mr. WALL (Pulaski). With reference to section 8, "The Appellate Court shall be held by judges of the circuit court, who shall be assigned to duty in such court by the Supreme Court, and who, during their respective periods of assignment shall not be required to exercise any other jurisdiction than that of Appellate Court judges." Why the necessity of constituting the Appellate Court out of the circuit court? They are elected as circuit judges by the people. Under this section their usefulness is taken away in the nisi prius courts when they are made Appellate judges. Why not, or did the committee consider that question, appoint the Appellate Court judges from lawyers independent of the circuit judges?

JUDGE COOKE. We did consider that, and our idea or what impelled us to come to this conclusion was this: We attempted to provide among

other things a court of great elasticity, and it was thought that at times the Appellate Court would need more judges, possibly only for a short time, than at others. It might be for just a short time, and it was thought that it was better to select a judicial officer for this than to take some one temporarily, perhaps, from his practice, for perhaps a month or two, or a year and a half or two years which would entail great sacrifice on his part, whereas if taken from the circuit bench no such results would follow, and under this plan it would not in any way hurt the work of the circuit court because there is provision here, ample provision, for keeping that court fully supplied with judges at all times, and there a new appointment can be made from the bar to the circuit bench.

Mr. WALL (Pulaski). Would it not require the election of the same extra number of circuit judges as would constitute the Appellate Court? In other words, you provide for four circuit judges in each circuit; you could have more or less, as the Supreme Court might determine, but is it not true if you had twenty men on the Appellate bench or fifteen, that necessarily you would have to take fifteen more circuit judges of the state than if you made some other person Appellate judge than a circuit judge, so you would not lessen the number of judges elected?

JUDGE COOKE. That would be true if the work of the circuit court remained uniform all the time, which I take it we will all concede is not the case. If you are to secure the best results from elasticity, you must have some scheme that will take advantage of that. Now, we conceived from time to time you would need more and then less judges on the circuit court bench, and that there you could take care of the increase and decrease that was necessary in the number of judges and by vesting the power in the Supreme Court to increase and decrease as necessary, the elasticity of all the courts could be taken care of, even of the Supreme Court, because the only way in which it could determine the amount of business that comes from that court and prevent it from being clogged is by changing the Appellate jurisdiction of the Appellate Court, so that if the Supreme Court became swamped it could throw the excess of the volume of business back on the Appellate Court which might necessitate at once the increase of the Appellate Court, and the scheme in working out would finally get back to the circuit court as the final analysis for its elasticity.

Mr. WALL (Pulaski). You also took into consideration the fact that a great many of these Appellate judges would be interested in matters arising from their different circuits, so that the entire court might not always be able to sit and pass on questions arising from the circuit court?

JUDGE COOKE. That would not be any more true than if lawyers were selected, because the judge is relieved from the exercise of further duties.

Mr. WALL (Pulaski). Suppose before his appointment he tried the case?

JUDGE COOKE. I assume any lawyer who would be appointed from any section of the State would be engaged in some litigation before he was appointed.

Mr. WALL (Pulaski). Suppose the circuit court tries the case?

JUDGE COOKE. It is possible that might happen, but that would not last for long, because it could only be for a short time.

Mr. WALL (Pulaski). It would not last for long if the court was up with its business. Having got your views on that subject, I desire to ask you this: You say there are many small counties in which a court could take care of all the business within three months. Can you name a county in the State where, if the court had the original jurisdiction of everything, all cases, as this section sets out, where a day would pass that the judge in his official capacity would not be consulted relative to some kind of business connected with his office, probate business, appointment of guardians, trial of insanity cases, appointment of administrator or consultations with reference to the multitudinous duties of the three judges, county judge, probate judge and circuit judges. Wouldn't it be absolutely necessary to have, if this plan was adopted, a resident judge in every county in the State?

JUDGE COOKE. That is the way it would practically work out. In answer to your question I would say no, it is not absolutely necessary. If the judge was there, there would not be a day he would not be consulted, but whether it is necessary to have a judge on hand every day and not have specified days in the weeks in which people might come and consult him is another question upon which we might not agree.

Mr. WALL (Pulaski). Under this plan, as I understand you, assistant judges would be appointed, who perhaps would look after the interests or business in two small counties?

JUDGE COOKE. That would be in very few instances.

Mr. WALL (Pulaski). They would not be in each of those counties all the time, they could not be in two different places at the same time, of course —is there any county in the State whose business would not suffer under that plan?

JUDGE COOKE. I do not think so.

Mr. WALL (Pulaski). Can you name a county in the State where it would not?

JUDGE COOKE. We have four counties of less than 10,000 inhabitants. I do not think the business of those counties would suffer if for three days in the week they had no judge.

Mr. WALL (Pulaski). If some person should become insane, or some person should die—under those circumstances would not the business of the county suffer?

JUDGE COOKE. So far as securing letters of administration, appointment of guardians and so forth, I do not think any one could suffer for twenty- four hours. Your illustration of the insane case is a little different proposition, but that is a matter of very infrequent occurrence in small communities.

Mr. WALL (Pulaski). Justice, don't you think it would be better to minimize the salary of your resident judges, wouldn't it be as economical to make the salaries small, say three thousand instead of six thousand five hundred, and have resident judges in each county, rather than keep the salaries what they are and to deprive any of them of the use all the time of a judicial officer?

JUDGE COOKE. There are arguments in favor of a court for each county; we considered them carefully——

Mr. WALL (Pulaski). I am trying to get your views on it.

JUDGE COOKE. I think it would not be advisable, considering the size of a number of counties in the State, to devise a plan whereby each county was to have a court of original general jurisdiction.

Mr. TRAEGER (Cook). Judge, you recommend the clerks of the circuit court be appointed by the judge. Do you believe that it is just for the circuit court clerk of the county, elected by the people and responsible to the people to have some one write the records in the court that is not responsible to him?

JUDGE COOKE. I do not know that I understand you, Mr. Traeger.

Mr. TRAEGER (Cook). You recommend the appointment by the judges of the clerk of the court?

JUDGE COOKE. Yes, sir.

Mr. TRAEGER (Cook). The Clerk of the circuit court is elected by the people, and do you believe it is just for some one to write his records who is not responsible to him personally?

JUDGE COOKE. Under this plan the clerk of the court would no longer be elected by the people, not under this plan.

Mr. TRAEGER (Cook). Would that apply also to the sheriff?

JUDGE COOKE. We make no reference to the sheriff in this article at all.

Mr. TRAEGER (Cook). Frequently the bailiffs of the court have to be used for other work when judges are not in session.

JUDGE COOKE. This contemplates the appointment by the Court of their own personal bailiffs, who do the personal work of the court.

Mr. TRAEGER (Cook). They do that now, but they are expected to do other work when the sheriff needs them.

JUDGE COOKE. We are simply providing by this plan, then what through courtesy the judges in Cook county are permitted to do now.

Mr. TRAEGER (Cook). That is what you are advocating?

JUDGE COOKE. Yes.

Mr. HAMILL (Cook). Under your plan, what would be the relation of the bailiff to the sheriff? Would he have any of the powers of the sheriff?

JUDGE COOKE. I assume he could be given powers, possibly to serve papers, but the purpose of this article was to take care of the bailiffs who do the personal work of the court about the court room, attendants upon jurors, and so forth.

Mr. TRAEGER (Cook). The amount of work in Cook county from time to time requires bailiffs after court hours to serve papers frequently as late as eleven or twelve o'clock at night. If the bailiff was not responsible to the sheriff and the sheriff asked him to do that kind of work I do not expect he would get much results on it. Don't you think the sheriff's office should have control of them to a certain extent? Each judge has his own bailiffs at the present time, and he is responsible to his judge, but in addition to that he is also responsible to the sheriff, and may be asked to perform work for the sheriff at any time, either day or night, if an emergency requires it. Don't you think that is a better provision than is proposed under this bill?

JUDGE COOKE. That is a proposition that could be worked out.

Mr. CORCORAN (Cook). If the volume of business increased in the court, you would appoint an additional judge for a short time?

JUDGE COOKE. The term of office would expire at the time of the next regular judicial election.

Mr. CORCORAN (Cook). And if the volume of business decreased, how could you get rid of him?

JUDGE COOKE. You could not until the expiration of the term.

Mr. MAYER (Cook). Mr. Chairman and Judge Cooke, I have been denied the opportunity of hearing your address to the judicial committee; I was not present when you talked to the judicial committee, of which I am a member. I want to put a few pertinent questions to you: Why don't you put in this suggestion, that the judges of the Supreme Court shall reside in Springfield?

JUDGE COOKE. That is a matter that the committee thought was not necessary to put into the Constitution.

Mr. MAYER (Cook). How are you going to force the judges of the Supreme Court to sit at the seat of government, which I think it is their duty to do, to live in Springfield, so as to be together, so we can get decisions from all the judges rather than from one?

JUDGE COOKE. Mr. Mayer, as I stated, we did not consider that that was a matter that should be dealt with in the Constitution, therefore I could not even tell you what the views of the committee are upon whether the judges should reside in Springfield.

Mr. MAYER (Cook). I am inclined to think that is about as important a provision as you can put into the Constitution, that the Supreme judges shall reside in Springfield, and also that the Constitution should provide that the Supreme Court should have no sessions, should be in continuous session say from October until June, so they will have a continuous calendar, will be sitting together and living in Springfield. Is there any objection, aside from whether that is put into the Constitution? Don't you think that is a wise provision?

JUDGE COOKE. That is a matter, I take it, upon which there might be grounds for a division of opinion. As I stated, I am only here today speaking for this committee, and that is a matter we did not determine should go into the Constitution and I do not want to express any opinion on that because no conclusion was reached by the committee on that.

Mr. MAYER (Cook). I have had experience in your own court when I would find upon a rehearing that an opinion rendered by the court would become the minority opinion, and I have always felt that if all the judges of the Supreme Court who examined the record and brief sat together, that

such a thing would hardly be possible, and I for one would like to see the judges forced to live where they hold court, and I would like to have your opinion on that.

JUDGE COOKE. I will give you my opinion in this way: No matter what criticism may be justly made of the Supreme Court and the manner in which it does its work and the methods employed, in my judgment you cannot materially govern that or control it or change it by any such provision as requiring them to reside at Springfield. In other words, this court —and it is true of any court—it can in a large measure, despite any provision in the Constitution to the contrary, determine the manner in which it will dispose of its business. That is my own personal opinion.

Mr. MAYER (Cook). I am assuming the judges of the Supreme Court will certainly obey the Constitution.

JUDGE COOKE. Certainly they will, and they will live here, if required, of course.

Mr. MAYER (Cook). If we did not have sessions of the Supreme Court, so they could not rush through their calendars with their grips packed ready to go to their respective homes, don't you feel that one continuous session during eight months of the year with a continuous calendar, with no February term or April term or September term, November or January term, we would get more and better consideration by the Supreme Court of the cases?

JUDGE COOKE. That might be possible. This scheme does not place any obstacle in the way of that whatever, Mr. Mayer.

Mr. MAYER (Cook). It leaves it up to the legislature?

JUDGE COOKE. Upon this theory: We tried to formulate such a basic law as properly came within the function of a Constitution, and we did not assume that any court would operate except in the most efficient manner possible, according to its judgment and according to experience, and it was our idea that we should not lay down any hard and fast rule upon matters of that kind that would be binding for all time in the future, and we rather preferred to assume that the court itself would develop the very best policy possible, and I think that, in my humble judgment, is all that ought to be placed in a Constitution upon any subject.

Mr. MAYER (Cook). I think when you are dealing with the Supreme Court of Illinois that the Constitution is sometimes the only way in which they can be handled, and not by the legislature. I want to ask you a few more questions: You provide for the election of circuit judges, and yet your only qualification is five years at the bar. Do you think that is adequate?

JUDGE COOKE. That is not a matter of great importance.

Mr. MAYER (Cook). But you put it into the Constitution proposal.

JUDGE COOKE. Under the present Constitution, as I recollect it, there are no qualifications.

Mr. MAYER (Cook). That is what some of us are objecting to.

JUDGE COOKE. It was the judgment of the committee there should be some experience, at least, a judge of our courts should be required to be a member of the bar.

Mr. MAYER (Cook). You think five years qualification is enough?

JUDGE COOKE. We only fixed a minimum. If you are going to apply it to every case you would probably have to have a different qualification for each man who might become a candidate for judge.

Mr. MAYER (Cook). I do not agree with you. It may be possible that some great genius, some John Marshall may be denied the privilege of serving the people as a judge, but I think the public and the people would be better protected if the qualification for a judgeship was at least ten years active practice at the bar.

JUDGE COOKE. This is the judgment of our committee.

Mr. MAYER (Cook). Don't you think a twelve year term is too long for an elected circuit judiciary?

JUDGE COOKE. No, if we thought that we would not recommend it. Observation and experience discloses that it is quite the exception to the rule where a judge of the circuit court leaves the service, unless involun-

tarily, until he serves at least twelve years. We had in mind many other things; the possibility of reducing the expenses of holding judicial elections, and we had in mind other things, too; when a man leaves his practice, and a man who is selected to be a judge of our courts should be a man of experience and a man who has been more or less successful, and goes on the bench for a time, it is almost certain if he serves but one term, no matter how short a time, that his business is gone, and he must begin at the bottom and start over again so far as securing business is concerned.

Mr. MAYER (Cook). Are not most of those who are called to the bench called there at their own earnest solicitation?

JUDGE COOKE. I think that is pretty generally the case, Mr. Mayer.

Mr. MAYER (Cook). In section 2, I observe that you take away some of the independence of the judicial department, then you provide that the General Assembly may set aside any rule or rules that the Supreme Court may enact. Now, the legislature is made up pretty generally of lawyers, you might have some rules that the legislature does not like, for one reason or another, and you are immediately putting the rule under the control of the legislature. Why should that be? You say here, "That the General Assembly may set aside or abrogate, by law, any rule prescribed by any court." Is not that interfering with the independence of the judiciary?

JUDGE COOKE. We arrived at that in this way, and it caused quite a discussion in our committee. The member of the committee who made that recommendation and urged it, made it upon this ground, that we are making a rather radical departure from the present order of things in vesting the courts with this power and the people are slow to accept changes sometimes, and that it might be detrimental to the adoption of the Constitution if that change were made without any provision of this kind, and it was simply put in there to reassure the people that in making this radical change the power would not be entirely taken from the legislature, and it was very frankly stated by the member who made this proposal that in his judgment he did not think it would ever be availed of; it was because we were making a radical departure from the present plan, and that proviso was put in there to reassure the people that power would not be abused by the courts.

Mr. MAYER (Cook). Under that proviso the entire rules of practice can be put right where they are now by the legislature?

JUDGE COOKE. No.

Mr. MAYER (Cook). If the court did not adopt the rules that the legislature wanted, they could abrogate them.

JUDGE COOKE. That is true. If both houses of the legislature should pass a bill and the Governor would sign it, it would become a law, that is true.

Mr. MAYER (Cook). What do you say about giving the Governor, with the concurrence of the Supreme Court judges, the power to appoint all the assistant judges? The assistant judges, as I regard your plan, are going to be real judges?

JUDGE COOKE. Yes, no question about that, they will have such jurisdiction as the Supreme Court prescribes, and it will certainly be a large power.

Mr. MAYER (Cook). And I presume will be called to sit as chancellors or sit in the probate court or sit in the criminal court of Cook county. Now, I hesitate a good deal about acceding to the Governor, and there are still politics in the capitol at Springfield, Democratic or Republican, to appoint all of the assistant judges of Cook county. I do not single out Cook county, but I do for the purpose of my discussion because I live there and have lived there many years. Now, if you are going to make assistant judges out of the municipal court judges and out of Masters in Chancery, why we are likely to have one hundred assistant judges in Cook county and you approve of giving that power to the Governor? Isn't it going to continue a certain political coloring in the judiciary? You make no provision whether they should be Socialists, Democrats or Republicans? I am not taking issue with you, Judge, at all, but I want to get some enlightenment.

JUDGE COOKE. To begin with, in our present system of electing judges we cannot be free from politics, of course; they are elected and selected by political parties.

Mr. MAYER (Cook). You have got the responsibility right up to the sovereign power of the people.

JUDGE COOKE. In my humble judgment, it is the same way in the case of appointment. So far as the appointment is concerned we determined first that under all circumstances it was advisable to recommend their appointment. Now, the only method of appointment heretofore in vogue in this State has been some such method as suggested here, by the Governor, by and with the advice of the Senate or other governing body that may be designated. I think I can say it was hoped on the part of some members of the committee that in some other portion of this Constitution the matter of the appointment of such officials in the State as are required to be appointed can be taken care of, and if so, naturally the appointment for assistant judge could by very little change in this article be brought within that provision, but for the present, and from our experience in the past this seems to be the most appropriate and in fact the only method of appointment that would meet with the approval of the people, and we recommend this particular method.

Mr. MAYER (Cook). Now, just one more idea: Is it your view that Cook county will be best served by wiping out the municipal court as a distinct entity?

JUDGE COOKE. Well, of course, I want to take a little exception to your interpretation of the wiping out of the municipal court, but you add, "as a distinct entity." You ask me if the best interests of Cook county are served by recommending a consolidated court?

Mr. MAYER (Cook). Yes.

JUDGE COOKE. I think so, and that is the view of the committee.

Mr. MAYER (Cook). You were a member of the circuit court, were you?

JUDGE COOKE. No, sir, my only offense was to be a member of the Supreme Court.

Mr. MAYER (Cook). You honored that position, Judge. My observation has been in Cook county that the judges who have the power to appoint their assistant judges, their Masters, have really given us occasionally better masters than the judges who appointed them. I shall not give names, but I could name a number of Masters in Chancery in Cook county who are abler than many of the circuit judges; I mean abler as lawyers. Now, these judges who appoint their masters rely upon their master to a very large extent; there is personality and tie of association; is not that destroyed when you let the Governor appoint indiscriminately all assistant judges who will take the places of the masters of the particular judges?

JUDGE COOKE. This article does not make a specific provision of that kind. I place that interpretation upon it; it does not necessarily follow that the assistant judges will perform the duties of masters in chancery, but I assume it might be one of the duties prescribed for them. The article itself does not mention that.

Mr. MAYER (Cook). Does it contemplate they shall continue the system of masters?

JUDGE COOKE. There is nothing in this article about that. I assume perhaps one of the natural results of the adoption of this scheme would be that the assistant judges would be asked to assume the duties of master, but the article makes no provision whatever on that point.

Mr. MILLER (Cook). What is the purpose, Judge Cooke, in providing for a separate Appellate Court instead of an Appellate Division of the circuit court, inasmuch as the judges in either event are to be chosen by the Supreme Court from among the circuit court judges?

JUDGE COOKE. I think there is not anything of substance perhaps in that, Mr. Miller. As I understand your proposal, there is a distinction between your proposal and this.

Mr. MILLER (Cook). In that respect.

JUDGE COOKE. In that respect; I don't think that practically there is any difference between the two proposals, they work out practically in the same way, but we agreed to a separate and distinct court here, and give it a separate and distinct standing, which perhaps your proposal does not do; I do not see much difference in a practical way.

Mr. MILLER (Cook). Do you see any material advantage in calling it an Appellate Court instead of Appellate Division ?

JUDGE COOKE. I don't know that I could speak for anyone but myself, but sentimentally I think to make it a separate court and call it the Appellate Court gives it a little better standing perhaps and would give its opinion greater weight in other jurisdictions, at least.

Mr. MILLER (Cook). We have the Appellate Division in New York; do you think that detracts any from the weight of those opinions?

JUDGE COOKE. Oh, possibly not, I just had an impression, Mr. Miller, that is true.

Mr. MILLER (Cook). Are there not some advantages on the other side? If it was merely an Appellate Division you would not need a separate clerk's office, would you?

JUDGE COOKE. I am not so sure about that. You will agree with me there will be considerable work to be done by the Appellate Division under your scheme.

Mr. MILLER (Cook). You would not need any separate set of officers, as the clerk of the Appellate Court.

JUDGE COOKE. It seems to me that if the thing was to be worked out in a practical way you could hardly escape having a separate clerk for the Appellate Division of the court.

Mr. MILLER (Cook). If you had merely an Appellate Division, would not you avoid the necessity entirely of having a certified copy of the record made up by the clerk to transmit it to the court?

JUDGE COOKE. It is possible there is some economy there, but I doubt if you would save very much.

Mr. MILLER (Cook). In other words, you would not have to have any separate record because the judge would have that in that court. I was wondering if there was not some advantage in having an Appellate Division which you have not thoroughly studied out?

JUDGE COOKE. As to those matters, Mr. Miller, that you have just been discussing, of course you and I might agree, that is the way it should work out as a practical proposition, whereas if your proposal was made a part of the Constitution we might wander in the courts for ten or fifteen years and find out it was not being put into practice as we conceived it should be.

Mr. MILLER (Cook). I was trying to get your experience as of benefit to the committee, that is all. I think that is the opinion of some of the judges of the Supreme Court to increase the number of judges to nine would rather lessen the chances of getting an opinion by the whole court. What is your individual judgment about that from your practice and from your experience as a member of the court?

JUDGE COOKE. I would be inclined to disagree with anyone who took that view, and I think that if our proposal should be adopted that it would be quite necessary to increase the membership of the court because of the added duties that are placed on that by this scheme, and I do not think the efficiency of the court, from my own experience, would be lessened by the addition of two members.

Mr. MILLER (Cook). Isn't it your judgment that the efficiency, the very large amount of business transacted by the municipal court in Chicago, which is very large in proportion to the number of judges, is due to the fact that there they have a centralized system, a chief justice with a very large power?

JUDGE COOKE. I have no doubt but what you are correct in that assumption.

Mr. MILLER (Cook). That being so, don't you think if the Chief Justice was elected by the court you would get as much centralization of authority there?

JUDGE COOKE. I do not see why you should not.

Mr. MILLER (Cook). The theory, of course, if it is correct, is that the chief justice, being one of the members of the court, and being beholden for his office to his assistants, would not have that same power as if he were appointed in some other way. Don't you think there is something in that?

JUDGE COOKE. That is counting on the frailty of human nature, as to how far it would affect a man who was appointed by his fellow members, or affect one who was elected generally by the people; it would depend largely on the force of character of the individual, it seems to me. Perhaps there might be some grounds for contending that that would be more apparent where the chief justice was selected by his various members of the court, but personally I cannot yield to that view.

Mr. MILLER (Cook). I notice in section 12 of your proposal you say, "The Chief Justice so chosen shall hold office for such period as may be determined by the Supreme Court." What is your idea, that the Supreme Court could not pass a rule fixing the term of office, or that the Supreme Court after the chief justice is appointed, should determine when he is to leave his office?

JUDGE COOKE. My own idea is that the Supreme Court would fix that by general rule, Mr. Miller.

Mr. MILLER (Cook). In the third section you say, "It shall have exclusive power to fix and determine the appellate jurisdiction of the several courts;" not that I disagree with you, for I do not, but will you state a little more fully just what is your purpose by those words I have just read?

JUDGE COOKE. We had principally in mind the preservation, as I expressed it, the elasticity of the courts, hardly the proper term to use in this connection, perhaps, but to make it possible that the work of the court could be attended to promptly and expeditiously and to prevent the Supreme Court being clogged with work by having the right to fix and determine the jurisdiction of the court, and therefore could determine the volume of business that would come to the Supreme Court itself; that was one of the reasons we had for that.

Mr. MILLER (Cook). In other words the Supreme Court would find it practically impossible to sit there all the time and hear extended arguments on every case; in other words they would not have time to do any other work?

JUDGE COOKE. That is true.

Mr. MILLER (Cook). And the only way perhaps that that could be accomplished, to have the Supreme Court have only enough work to do, is to let them fix the jurisdiction?

JUDGE COOKE. That was the principal idea.

CHAIRMAN DEYOUNG. The committee is obliged to Judge Cooke for his able discussion. (Applause.) The proposal just presented by Judge Cooke was prepared by the Illinois and Chicago Bar Association. We have present with us today the president of the Illinois State Bar Association, and we will now be glad to hear from Frederick A. Brown, president of the Illinois State Bar Association. (Applause.)

Mr. BROWN: Mr. Chairman and gentlemen: I just want to say a word to you about the committee and what it has done.

When I became president of the association I made up my mind that if possible I would try to avoid the disagreement of various members of the Bar whenever they seek to go after any particular matter, and to that end I appointed a committee, and we named as chairman of that committee Judge Cooke, formerly of the Supreme Court. I did that in conjunction with Mr. Sheean, president of the Chicago Bar Association; he and I both agreeing that we would appoint Judge Cooke chairman of our respective committees to see if possibly we could get harmonious recommendations to your Convention on the judicial section.

In appointing this committee I endeavored to appoint what I considered some of the very ablest men in the State. On the committee are seven judges or ex-judges; nine former presidents of the Illinois State Bar Association, six former presidents of the Chicago Bar Association and a representative each

from the University of Illinois, University of Chicago and Northwestern University.

I do not mean that this committee has prepared a sacred document at all, any more sacred than many other documents that have been prepared, but I do believe that it is a document that is entitled to the very careful consideration of the members of this Convention, coming as it does from this class of men. There was not a man appointed on that committee because of any view that he might have possessed; I knew nothing about the views of any of them. I did, however, feel that the court should be represented on that committee; Judge Cooke was selected not only because of his having been on the Supreme Court of Illinois, but for the further reason because of his ability and the still further reason that he was really a downstate man; he has hardly got acclimated to Chicago yet. There was also appointed on that committee a member of the Appellate Court, Judge McSurely and also a member of the municipal court of Chicago, as well as several other judges from the different circuits. I feel I do not care to discuss the various provisions of the measure, but I do feel that it should receive at the hands of this committee the very greatest care and I feel it will receive at your hands the consideration that it deserves. I thank you. (Applause.)

CHAIRMAN DEYOUNG. The proposal which has been considered, number 188, is not the only one to which the discussion today will be given. There is a man who probably had more to do than any other single man in the State of Illinois with the calling of this Convention, and I take great pleasure in calling him now, and his discussion will not be limited to proposal number 188, but to take the wide range of any proposal. I take pleasure in presenting Justice Orrin N. Carter. (Applause.)

JUSTICE CARTER. Mr. Chairman, gentlemen of the Convention, ladies and gentlemen:

In view of some phases of the discussion I am a little bit timid about talking on this subject; I want to say, Mr. Chairman, as I said to your committee briefly two weeks ago in Chicago, that I have no hobby on this question. The schemes proposed and none of them are my scheme. The scheme that I propose no judge in the State so far as I know has favored and very few lawyers, and therefore of course must be wrong, and I won't discuss that, but if you will pardon me for saying that any man who comes here with a hobby, and I think you want to watch out for that, comes because he has probably an idea that will fit his ideas, and not the people's.

I said to the committee meeting in Chicago that after all we must remember that the question of form alone would not give us good courts any more than it would give us any good system of government if we trust to form alone; unless you have the personnel of the judges right you won't get good results. I fear possibly I might have misled the committee today; I don't want to minimize in any way my belief that the personnel of the court has much to do with the court; I think there is very much in form. I think there is much in what Pope said long ago, "That for the forms of government, let fools contest, what is best administered is best." Some one put it many years before that in this language: "If you want good government you had better have the laws made by Lucifer, the prince of evil and enforced by Gabriel, the angel of justice and wisdom, rathen than have it the other way, the laws made by Gabriel and enforced by Lucifer." There is much truth in that. There is something in form, but form won't help much. What would our system of judiciary do in Russia at the present time? Do you think it would make for justice over there?

I might say before I depart from it that our profession as lawyers makes us differentiate and disagree; you laymen of this Convention know that the lawyers here disagree. Of course our education teaches us to do that, and the judges perhaps are just as bad. Indeed, I may say in the presence of judges who attended meetings with me in Chicago that lawyers in large bodies make the poorest legislative body; they never agree. That is more true of nisi prius courts than courts of review. The members of the court of which I happen to be a member at the present time thought of trying to agree on a plan to present to this Convention, but we did not have time, because we disagreed very emphatically on some of these provisions.

I may be pardoned for saying, Mr. Chairman, so far as I am personally concerned, and I think that is true of every member of the highest court of this State, that no matter what this Convention may do, we will try to carry out this sheme and program as best we can.

I believe so far as practicable we ought to have a consolidated court, not only for Cook county, but for the rest of the State. I believe we ought to have a system that is elastic, so that we won't be spending much of the time on the jurisdiction of the court and allowing much of the time to be spent in taking various appeals from one court to the other. I think the Federal system as the traveling of cases from one court to another, permitting judges to sit in various courts, is in many respects ideal. But, while I have no special scheme to set up here, there are many good features in that regard both in what is called Mr. Miller's bill and the bill about which Judge Cooke has been talking this morning, as to the consolidation of courts and saving of time on appeals and jurisdictional questions.

I have pretty definite ideas on many of the questions that are before you, but I will not discuss them in detail. I believe very strongly that the fewest changes you may make will give better results, because I think any change you make in any law, it takes time to have the people become accustomed to it. Lowell said in Bigelow Papers in speaking on this subject, "The older the government is the better it suits, new ones hunt out people's corns like new boots; change just for change's sake is like a big hotel where they shift plates and let you live on smell."

While I agree very largely with most of the features of the consolidated bill presented by the Bar Association Committee, they introduce one feature there I am opposed to, and that is, giving original jurisdiction to the Supreme Court of the State in quo-warranto proceedings. Perhaps some man insisted on its being there who has had some case involving the right to office that he wanted decided speedily. I have been thirteen years in the Supreme Court of this State and I have never seen one cas in quo-warranto where there was any emergency, to have decided immediately by the Supreme Court. I think that is a change that is unwise and not needed. Twenty years ago the Supreme Court decided they could not take original jurisdiction on all mandamus cases; if that were true now, at the present time they would be sitting hearing mandamus cases all the time. We have no habeas corpus cases brought there, but have always taken jurisdiction of those cases since I have been there if we thought any real question was involved, and I suppose this was adopted because of the volume of work before I became a member of it; they would not hear any case on habeas corpus if the same question could be raised by a writ of error and that is the rule of the court at the present time.

I am willing to trust very largely the judgment of the members of this Convention on the various details of the Constitutional provisions, and I believe in the wisdom of the many rather than the wisdom of the few; I want to say to the lawyers of the Convention, don't turn down without thinking about it some suggestions in regard to this that might be made by laymen, because I have noticed that they sometimes see weaknesses that lawyers are unable to see.

In conclusion, I want to say this in reference to the judicial system and all other systems of government you are thinking about here. I believe the great problem before the American people at the present time, and before this Constitutional Convention, is to so arrange government affairs that the people really govern, and yet not so load the people down with details that you destroy the practicability and efficiency of government. That is a great problem before this Convention. Do not take the great basic principle of government away from the people, but do not load them down with detail. I thank you (Applause.)

CHAIRMAN DEYOUNG. The municipal court of Chicago will be represented by the Honorable Wells M. Cook, who has been designated by the judges of that court to appear here today, and we would be very much pleased to hear from Judge Cook.

JUDGE COOKE. Mr. Chairman and gentlemen: The administration of justice has always been regarded as the first object of society. It is the opinion of those who have given the subject thoughtful consideration that the principles underlying the organization and management of the municipal court of Chicago are the principles which apply equally well to all courts and judicial systems. The municipal court of Chicago is a good example of an organization that permits of business management, with rule-making power, administrative power, positive delegation of these powers to representative judges composing a council, and consequent responsibilities. Meetings and reports form a second necessity. All these things were unknown before the municipal court of Chicago was established. They are now considered necessary to every judicial system.

The court has a Chief Justice and thirty associate judges, all of whom are elected by the people. The Chief Justice is given large powers. He is like the president or general executive officer of a corporation. He is the general superintendent of the business of the court. He has the duty of assigning judges to the different branches of the court, of sending the cases on the calendar to the various judges and of empanelling all jurors of the court. The court as a whole has large powers. While the Act creating the court provides in a way for certain of the procedure and practice, the judges as a whole, may, in addition to or in lieu of the legislative provisions prescribing the practice, adopt such rules regulating the practice in the court as they may deem necessary or expedient for the proper administration of justice therein. The court fixes the number of its clerks and bailiffs and fixes their salaries. The Chief Justice has an auditor who works in the courts in a business way, making reports every month and annually.

The municipal court started with twenty-eight judges and in its first year disposed of 97,718 cases of all kinds. Since then three judges have been added and last year over 200,000 cases were disposed of. The rate of increase in judges in ten years was 9 per cent, while the rate of increase of business done was 45 per cent.

In the Circuit and Superior Courts the force of judges was increased in the same period 65 per cent and the number of cases disposed of has increased only a little, if at all. Twice in the last ten years we have been told that all the Circuit and Superior courts needed was more judges and twice the force has been increased. But the glut of cases is now just as bad as a decade ago.

This is quite to be expected. Add two judges to a court of four and you get approximately 50 per cent increase in capacity. But add ten judges to an unorganized, go-as-you-please court of thirty members and you do not get one-third increase in capacity of work.

The municipal court is not only the court of misdemeanors and small civil cases, but is the business man's court also, in which are tried practically all the large civil cases over which it has jurisdiction.

Let us consider the limitations of the court.

It does not possess all the judicial power within its territory. It has no chancery or probate jurisdiction and is limited in tort to $1,000. Its branch court of domestic relations, superb though its record of accomplishment be, is hampered. It is possible, for instance, for the affairs of a family which are under adjudication in the domestic relations court, to be the subject of litigation simultaneously in the chancery division of the Superior and circuit courts and in the probate court, while youthful members of the family are being attended to by the Juvenile Court. The absurdity of competition between independent tribunals in administering justice in a single locality is apparent. The new Constitution can remedy all this.

The Chicago municipal court has no jurisdiction in felony. At the present time the criminal branch judges of the municipal court bind over those who commit felonious offenses to the grand jury, which holds them for trial in the criminal branch of the circuit and superior courts. During the months which ordinarily intervene while all these separate agencies are performing their functions, a grand opportunity is afforded expert and vicious criminals to slip out of the meshes of the law, while innocent defendants are punished.

In a large city like Chicago a court must be departmental, just like a large business. The various kinds of judicial business must be classified under a few general heads, and then under the several heads there must be sub-classes. In no other way can the court itself know what its business consists of and what is necessary in order to take care of it properly.

PLAN FOR SINGLE COURT.

For Chicago there should be one single court with complete judicial power second only to the Supreme Court of the State. The main departments or divisions should be as follows:

1. Appellate.
2. Chancery.
3. Probate, divorce and domestic relations, including the juvenile court cases.
4. Civil jury.
5. Civil non-jury.
6. Criminal.

These divisions are along functional lines. Among them our seventy-three judges should be assigned, according to their respective experiences and talents. There should be power to transfer judges under certain rules to prevent congestion in any particular division.

Each of these six divisions should have its own manager or presiding justice. The six presiding justices, with the chief justice, should constitute the judicial council charged with the duty to control and regulate, according to law, all the administrative work of all the divisions and judges.

The judges of the municipal court are opposed to an appointive judiciary.

An appointive judiciary is contrary to the genius of the spirit of our institutions. The powers of our government are divided into three distinct departments, the legislative, the executive and the judicial. Each department is to be independent of the other and must execute its functions without interference of the other. The question is deserving of careful consideration, for the control of the judiciary by the executive is dangerous especially when great questions of public policy are involved. The lines which separate the judiciary from the executive become indistinct; and the bench tends to degenerate into the mere echo of the executive or appointing power. Precedents there are many of the retirement of upright judges, to say nothing of the maintenance of incompetent or the influencing of weak ones, where the Executive has the power of appointment. The hope of promotion or retention, the zeal of former political connections, and the thirst for further power tend oftentimes towards the support of the executive, right or wrong. All such tendencies call for increasing vigilence from the people.

I quote with deference from an authoritative address made by that forward-looking jurist, Chief Justice Winslow of the Supreme Court of Wisconsin, in which he said, among other things:

"I claim no exceptionable ability or wisdom of the Wisconsin electorate. The argument that the mass of people, unlearned in the law, are not qualified to select their judges, is refuted by the experience of Wisconsin and other states where they have been given a chance to select them. The overshadowing fact in this whole discussion is that the people have the right to choose their public officers, and in their estimation there is nothing in the conduct of the courts that make their judges an exception to the rule. Real public service lies not in attempting to enforce a return to the discarded system of appointing judges, but in accepting the elective principle and endeavoring by means of it to bring to the bench men learned in the law and sympathetic with the needs and aspirations of all the people. No system can work successfully that is not supported by public sentiment. No greater service can be done than to secure, if possible, the submission to the voters of this State of a proposed amendment to the Constitution which will embody the principle of a nonpartisan elective judiciary. The public discussion which would inevitably follow could not fail of accomplishing great good and pave the way for an intelligent decision by the electorate upon this great subject."

We oppose any plan whereby the present judges of the municipal court of Chicago, elected by the people to be judges for their respective terms, shall be made law clerks with the title of "Assistant Judges." Every litigant has the right to have his cause heard by a judge duly chosen. The assumption is that an "Assistant Judge" is less than a judge. To force a litigant to trial before an "Assistant Judge" is to work a grave injustice. All judges should have equal character and ability.

For thirteen years last past, the judges of the municipal court of Chicago have disposed of three-fourths of the commercial litigation in Cook county. They have disposed of four-fifths of the criminal and quasi-criminal business of Cook county. The aggregate amount of judgments in their court for one year exceed the aggregate amount of judgments of all the other courts of Cook county combined for a period of three years; and such aggregate amounts of judgments in the municipal court of Chicago in a given year exceed in amount the judgments of all other courts of Illinois combined in the same given year.

If jurisdiction in felony cases were given the municipal court of Chicago a prompt efficient administration of the Criminal Law would follow. In that court practically all criminal cases are disposed of within one month following their institution, whereas in felony cases from one to three years and more elapses before they are brought to final determination in the criminal court of Cook county.

The municipal court with an amplified criminal jurisdiction could serve the people of the City of Chicago promptly and efficiently. If it be the better judgment of the Constitutional Convention that there should be one court in and for the City of Chicago and County of Cook, then we submit that the judges of the municipal court of Chicago should be created full members of said one court on an equality with each and every judge of said court for the period for which the municipal court judges were originally elected; and that upon the expiration of their several terms they shall have the same opportunity as any other judge or duly qualified person may have to present their candidacies for election as members of the consolidated court.

If there is to be one court in the City of Chicago and County of Cook any attempt to differentiate between the classes of judges who are to serve will surely develop plenty of opposition to so unfair and illogical a plan. All courts have their friends as well as their foes, speaking in a purely political sense. The judiciary article, it must not be forgotten, must meet the approval of the voters. If efficiency and economy are to obtain in an organized court they will not be obtained by the creation of judicial classes. An intelligent, honest, capable chief justice should be able to see to it that the best men are assigned to the more important calendars. If we are to have judges and "Assistant Judge" we may just as well throw aside all considerations of efficiency and economy. It is no secret in Cook county right now that many of the judges of the circuit and the Superior Court for whom the municipal court judges would be required to became assistants or clerks not only feel but openly express feelings of opposition based upon the apparent equality which the judges of the municipal court would have, were all judges of the one court placed upon an equality in power and jurisdiction. I dislike to mention such a sordid consideration as equality of salary. Furthermore they appear reluctant to share their dignity with judges they look upon as inferiors. Can you blame the municipal court judges for resenting these things? Such a feeling among brethren of the same bench will not make for efficiency and economy, the great result we all hope to obtain in any consolidated court organization.

In conclusion, I repeat: The record of the municipal court of Chicago and the judges thereof entitle them to equal recognition in the creation of one consolidated court of record in the City of Chicago and County of Cook.

Mr. MILLER (Cook). Judge Cook, I take it from what you say that your belief is that progress and efficiency in the punishment of crime is the best method of getting rid of it, or to reduce it?

JUDGE COOKE. Yes, sir.

Mr. MILLER (Cook). Let me as you in your judgment and your observation and in your practice, your experience on the bench in Cook county, where a man fears an indictment most, in the federal or state courts?

JUDGE COOKE. In the federal courts.

Mr. MILLER (Cook). There the judges are appointed and in the state court they are elected. Did you know that there was approximately a murder a day in Chicago last year?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). And about twenty to thirty robberies a day?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). And the convictions so few that the man convicted might reasonably claim it was a mischance?

JUDGE COOKE. Yes, and do you know the reason for that? It is because the best men on the superior and circuit court benches in Chicago are constantly avoiding service in the criminal court. If you will put the best men on the criminal bench, in the criminal court of Cook county, we will have a better enforcement of criminal justice in Cook county, in my opinion.

Mr. MILLER (Cook). How would you accomplish that?

JUDGE COOKE. By having a chief justice elected by the people who shall have the right absolutely to assign a man to the criminal court, and the man that was assigned to the criminal court would have to go to the criminal court, and there would be no argument about it.

Mr. MILLER (Cook). Do you think that would accomplish the result?

JUDGE COOKE. Yes; we have some good men in the criminal court now, but instead of having three or four men over there we ought to in the carnival of crime have twelve or fifteen judges sitting over there. It is more important that we administer criminal justice promptly and efficiently, even if for the time being we do delay the administration of civil cases.

Mr. MILLER (Cook). Personally I very thoroughly agree with you. Do you know that last year out of 1250 convictions of felony in Cook county only one-third were ever punished at all, do you happen to know that?

JUDGE COOKE. No.

Mr. MILLER (Cook). That is a fact. It has been stated to me, Judge Cook, by one of the men in Chicago actively interested in the suppression of crime, not an official, but one who devotes his time to that purpose, he thinks it would be a great step in advance if the judges were chosen by lot from among the Chicago Bar because they would have no entanglements. Would you agree with that?

JUDGE COOKE. No, I certainly would disagree with that statement.

Mr. MILLER (Cook). You have spoken about the fundamental division of the government into three departments, which is fundamentally one of our tenets. That first was done in the federal Constitution, wasn't it?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). And that same document provided for the appointment of the judiciary by the president with the concurrence of the Senate.

JUDGE COOKE. Yes, but I want to say in that connection, Mr. Miller, I am of the opinion that the trend of events would indicate that the people in the country at large are for an elective judiciary. In fact, no less than a few days ago one of the Senators of the United States introduced in the United States Senate a bill for the election of the federal judiciary.

Mr. MILLER (Cook). That was Senator LaFollette, wasn't it?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). Do you think that is an indication of thought in the country?

JUDGE COOKE. They are thinking along those lines.

Mr. MILLER (Cook). Are you familiar with the fact that Massachusetts has had an appointive judiciary since its beginning?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). Do you know this, that during the recent Constitutional Convention which lasted a long time, all sorts of proposals naturally were introduced, but not a single one to abolish the appointive judiciary?

JUDGE COOKE. I could not say I am familiar with that fact.

Mr. MILLER (Cook). I understand it to be a fact. You were speaking of the appointive judiciary as experimental, did you mean that?

JUDGE COOKE. If I said that, it is a misstatement. What I meant to say was, if I said that, under this proposed scheme it would be largely experimental because it goes further than any previous scheme. That is what I had reference to in using the word experimental.

Mr. MILLER (Cook). When you are speaking of the tendency of these appointive courts, is it your understanding that the appointive judiciary are less progressive and more technical than the elective?

JUDGE COOKE. From the standpoint possibly of purely legal acumen and legal ability, it is possible to select a man by appointment who would be superior to a man elected.

Mr. MILLER (Cook). That is not the question.

JUDGE COOKE. I am trying to answer the question. But from what little observation I have had, living in a large city for 25 years, what we want to do is to keep the courts nearer to the people, rather than to remove them from the people, and I think there is a great mass of litigation, and it is true in the circuit and superior courts, that is never appealed, in fact a great majority is never appealed. It is of importance that the people themselves, in order to have confidence in the decisions of the judge from whom they do not appeal, that they may feel that the man before whom they take their cases are men of their own choice. I think that will create respect for the courts rather than disrespect, and I think the great thing that we need is more respect for law and order.

Mr. MILLER (Cook). Yes, I agree with you. The question I had in mind was this, which kind of judges, as a rule, the appointive or elective, are more progressive and less technical?

JUDGE COOKE. I cannot answer that, I am frank to say I cannot answer that. I have known some federal judges, not in Illinois however, but in other jurisdictions, men who were appointed and were far more technical than any elected judge I ever met in Illinois.

Mr. MILLER (Cook). Under the system of practice which is most technical of any in this country, in New York, where the most of their decisions of the upper courts are matters of practice, judges are elected, aren't they?

JUDGE COOKE. Do they have our reform procedure such as obtains in the municipal court?

Mr. MILLER (Cook). Yes, they have a highly reformed system of procedure there, called a simplified procedure.

JUDGE COOKE. I understand also in New York they have judges that are created by one political machine, the Tammany machine.

Mr. MILLER (Cook). That I will come to later, I am glad you mentioned it. In Massachusetts they enacted a system of practice very similar to that of New York, but in Massachusetts there are practically no practice decisions.

JUDGE COOKE. I am speaking of what I consider best for Chicago and Cook county. I assume other conditions obtain in New York and Massachusetts, and I do not pretend that you gentlemen here will agree with me. You can consider what I say or throw it to one side; I come here to give you what I believe is my honest opinion and best for the City of Chicago and County of Cook.

Mr. MILLER (Cook). That is what we are trying to get, and your reasons, because they are very important. Are you aware of this fact, that Mr. Justice Brandeis, Storey and others put out a document a couple years ago in which they reviewed the findings in general of the elective and appointive courts, and called attention to many, many instances where elective Supreme Courts have declared laws unconstitutional and the same laws have

been declared constitutional by appointive courts, as for example the Eight Hour Woman's Law, declared unconstitutional by the Supreme Court of Illinois, declared constitutional by the Supreme Court of New Jersey; the workmen's compensation act was declared unconstitutional by the Supreme Court of New York and was declared constitutional by the Supreme Court of Massachusetts. The inheritance tax law was declared unconstitutional by the Supreme Court of Ohio and constitutional by the Supreme Court of the United States, and many other examples of that kind. Have you happened to read that pamphlet?

JUDGE COOKE. Yes, and also another pamphlet which takes altogether a diametrically opposite view, published in Philadelphia I think by the American Political and Social Science Society, which is a sort of symposium of opinions by lawyers and judges of the various states, printed and prepared possibly two or three years ago in about 1917, and unless I misread that document it strikes somewhat the key-note I have been striking this morning. I would recommend that every member of this Constitutional Convention get that document.

Mr. MILLER (Cook). You are familiar, of course, with the fact that Australia has a purely labor government voted in by the labor party?

JUDGE COOKE. Within the last year?

Mr. MILLER (Cook). No, a great many years past, seven or eight years past anyway.

JUDGE COOKE. Well, in a general way, I am not concretely familiar with that.

Mr. MILLER (Cook). They have the appointive judiciary there. In New Zealand they have a progressive government, where the railroads are operated by the government.

JUDGE COOKE. I am keeping in mind as I am standing on my feet the experiences of the people under the Tudors and Stuarts, where they had an appointive judiciary.

Mr. MILLER (Cook). That was some time ago.

JUDGE COOKE. Yes, but human nature has not changed much since.

Mr. MILLER (Cook). That was when the judges held not during good behavior, but at the will of the king, was it not, and the judges appointments were made during good behavior so as to relieve them from that very situation?

JUDGE COOKE. Substantially so, yes.

Mr. MILLER (Cook). For instance, also in Switzerland where they have Initiative and Referendum they have the appointive judiciary, do they not?

JUDGE COOKE. Well, I am speaking of the City of Chicago and County of Cook, and knowing people as I know them, and I have spoken to them in political meetings, tried lawsuits with them, sat on the bench before them, and I am giving it as my honest opinion for the people we have up there the best thing is an elective judiciary.

Mr. MILLER (Cook). In Chicago the plain common people choose the judiciary?

JUDGE COOKE. Yes, they should, unless we want to abrogate democracy.

Mr. MILLER (Cook). They do, don't they?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). We have no situation such as you mentioned in New York, we have no Tammany there.

JUDGE COOKE. We have to go out into a primary, the municipal court judges; it is the circuit and superior court judges that are appointed by the committeemen; the municipal court judges are selected by primary and elected by the people.

Mr. MILLER (Cook). By the plain common people, and the politicians have nothing to do with it?

JUDGE COOKE. They have something to do with it, certainly, and they will in any system that is proposed.

Mr. MILLER. Exactly.

JUDGE COOKE. What I suggest, Mr. Miller, is that what we really need is a non-partisan elected judiciary, if we can ever come to that. I do not believe we are ready for it now. I quite agree with Chief Justice Winslow, that we should have a non-partisan judiciary, men selected by the people who should be selected for their qualifications, but so long as our political form of government is administered by parties, I believe in the election of judges on party tickets.

Mr. MILLER (Cook). Then a non-partisan ticket is what I understand you believe in?

JUDGE COOKE. That is a consummation devoutly to be wished, but I do not believe it can be enacted into legislation at this time, but if we are going to strive for ideals, I would like to see that sort of ideal come forth from this Convention.

Mr. MILLER (Cook). You know they have it in several states?

JUDGE COOKE. Yes.

Mr. MILLER (Cook). Where?

JUDGE COOKE. I am not clear now whether it is one of the western states.

Mr. MILLER (Cook). Ohio, for instance?

JUDGE COOKE. I was thinking particularly of a Western state; I am not quite clear whether Washington or Oregon, on the Pacific Coast.

Mr. MILLER (Cook). Doctor Bigelow presided over a Constitutional Convention in 1912 in Ohio. Do you know what the workings of that is in the large cities?

JUDGE COOKE. No.

Mr. MILLER (Cook). The lawyers tell me they have the weakest bench they have had since 1912 when they arranged for the non-partisan ballot. I simply mention that because I happen to have a great deal of practice in Ohio. They also had it in Iowa and last year they abolished it, do you know that?

JUDGE COOKE. No.

Mr. MILLER (Cook). That is a fact. Now, speaking about Chicago again, when a man first runs for judge in Chicago, how many of the voters are acquainted with his qualifications?

JUDGE COOKE. It depends largely upon the man.

Mr. MILLER (Cook). Oh, any man of your acquaintance when he first runs for judge.

JUDGE COOKE. I could just give a wild guess on that, no man actually knows.

Mr. MILLER (Cook). Say one thousand?

JUDGE COOKE. It will depend on how active a man has been in social, political, in legal and in other circles. There are so many things that enter into this so far as a man's personality and acquaintance is concerned I could not say; I do not feel qualified to say how many people.

Mr. MILLER (Cook). Would you say that when a man first runs for judge there are more than one thousand people acquainted with his qualifications?

JUDGE COOKE. Yes, more, I think; I have in mind some judges, I am satisfied five, ten, fifteen or twenty thousand.

Mr. MILLER (Cook). When he first ran for judge?

JUDGE COOKE. Well, some man who was pretty popular and well known in the community. No man knows, no statistics have been taken on that. I am not going to make a statement that I cannot base some statistics upon.

Mr. MILLER (Cook). Assume it would be about a thousand, as a fair average; since we will soon have a million voters, there would be about one-tenth of one per cent who would be acquainted with the man's qualifications.

JUDGE COOKE. I notice in Chicago that the Bar Association has a bar primary from time to time and tries to give the people the qualifications of the candidates and the newspapers in the main endorse the men who are named in the Bar Primary, so as a matter of fact, as it actually works out, I would say 100,000, to the extent that the newspapers are read in the City

of Chicago; to that extent are the people more or less advised as to the qualifications of the judges.

Mr. BRENHOLT (Madison). I do not want to limit Mr. Miller, but there are doubtless others who would like to ask Judge Cook questions; he has now been on his feet for some time, and I move that we recess until two o'clock.

(Motion prevailed.)

Whereupon, an adjournment was taken by the Committee of the Whole to Tuesday, March 23, 1920, at two o'clock p. m.

2:00 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to adjournment.

Chairman DeYoung presiding.

CHAIRMAN DEYOUNG. The committee will please come to order. We are fortunate in having with us this afternoon a member of the circuit court, Judge Norman L. Jones of the seventh judicial circuit in which this county is located. (Applause.)

Mr. DUPUY (Cook). I would like to submit a motion that the privilege of asking questions be entirely suspended until the speech making is concluded.

(Motion carried.)

JUDGE JONES. Mr. Chairman and gentlemen of the Committee of the Whole:

The duty of creating a judicial system is a serious matter. The judicial systems as a general rule ought not to be disturbed unless there is a known defect in the system, and then only where the remedy proposed is reasonably certain to bring about the desired result.

I am of the opinion, voiced by most of those who have preceded me, if not all, that the present judicial system of Illinois is in need of some modification at least, but I am one of those who do not hesitate to say that I believe that the present judicial system has not proved to be altogether inadequate, inelastic or bad. If every person can obtain by law, right and justice, freely and without being obliged to purchase it, completely and without denial, promptly and without delay, we have a system which will meet all the requirements of the people . In order that we may have such a system we must have judges who are willing to work. The personal equation as was pointed out by Justice Carter is an important factor in the administration of justice. If a trial judge works but four or five hours in a day he is not doing a day's work; if his court is in recess three months of the year he is not putting in all the time that he should put in. I do not know, and I do not charge that there are any courts so administered; if there is then it is not to be wondered at that the business and the dockets of the courts have become clogged and stagnant. I am glad to say that in the great majority of the circuits of this State there is no such stagnation. In nearly every county in this State it is possible to get a trial of a case at the first term to which the siut is brought. The Supreme Court of this State is up with its work. It is able in the great majority of cases to render an opinion in the next succeeding term after the case has been taken on call. A better situation could not be desired.

If there be delay in procuring justice in this State it is largely due to the fact that the law permits successive appeals. If a case can be started before the justice of the peace and then go to the county court or circuit court and then from that court to the Appellate Court and then from that court on to the Supreme Court you have too many steps in your legal stairway. Rid our present judicial system of that vice and you will not have an inadequate system. I think that the committees appointed by the Illinois State Bar Association and the Chicago Bar Association have done well to formulate a plan and scheme for a judicial system such as they have submitted to this body for your consideration. I have not the honor of being a member of either of those committees, but to a large extent I have given careful consideration to the various provisions of that bill, and I believe standing

here as I do, not a critic of the past system, but the proposed system contains many features which would be of benefit to the judicial system if in your wisdom you see fit to modify our present system.

The Supreme Court is kept practically intact as it is, except it has its membership increased. The Appellate Court may or may not suit you because its judges are to be taken from the circuit bench. I say that is a matter of detail. You must have an Appellate Court. The Supreme Court cannot do all the Appellate Court work. It is necessary to have an Appellate Court, and if the Constitution of the Appellate Court as proposed by the committes does not suit you it is an easy matter to change it and have the judges appointed and not taken from the circuit court bench. The great reform which is proposed is the reform intended to do away with the successive appeals which are now allowed by law you all admit it is necessary and essential and obligatory to have a Supreme Court and most of you will agree it equally necessary to have an Appellate Court, but I think it ought to be admitted by everybody that there is no living excuse for more than one nisi prius court. There ought to be but one step from the first decision to the last. A case which is started in the nisi prius court ought to be permitted to go to a final jurisdiction. The jurisdiction of the Appellate Court and the Supreme Court will of course be defined and determined and whatsoever court the appeal or writ of error goes to from that court ought to have final and decisive jurisdiction in the matter, reserving of course the right of every court to reverse and remand for error in the trial.

I do not agree with those who advocate the county as a unit for the selection of the judges of the nisi prius court; if it were possible under our condition of affairs in Illinois to permit it, if all counties were of the same size, if all counties were approximately of the same population, if all counties had approximately the same amount of business the county would be the ideal unit, but such is not the case, gentlemen, such is not the case. We have counties in this State where all of the business of every court as it is now constituted can be transacted within three or four weeks of a year; the average county can have all the business that it produces tried and disposed of, if it were possible to assemble all the business together, within three or four months. I live in a circuit that I think is a representative circuit; it has large counties and small counties; it has the capitol of the State of Illinois located in it; the circuit court of Sangamon county has jurisdiction given to no other court in the State. All the appeals from the Utilities Commission go direct to the circuit court for this county. There are a number of classes of cases that go only to the circuit court of this county, and I say to you with the exception of Sangamon county there is no county in this circuit that can reasonably consume all the time of a trial judge, and that includes the great county of Macoupin on our south. The nisi prius court must be a court of original and exclusive jurisdiction. It will become a court of great importance and great dignity. The men who are selected to fill that position ought to be men of capacity. I can point you to a county in this State not far located from this capitol where at the last general election for president there were but three men who were admitted to the bar living in that county. One was the county judge who had never practiced law, who had graduated out of the county clerk's office into the county judge's chair, another was a man more than 70 years old and in failing health and another was a man who had just moved in a day or two before the election. There was not a lawyer in that county to run for State's attorney, and the man who was elected and who holds office today was not licensed to practice law, and that is the situation. For these reasons, gentlemen, I say to you that it is impossible, practically impossible and absurd, I might say, to think of the county as a unit. There are other counties, counties like this where no one man can do the service; of course I can see it is possible to have additional judges, and I mean no offense to anybody—I think perhaps the committee was a little unfortunate in the term assistant judges. If they had used the term associate judges there perhaps would not be half the smoke about it that there is today, but the circuit is the logical, practical unit. We do not perhaps need any more judges, but

we do need fewer courts. The justice of the peace has not been done away with by this proposed measure, but I would imagine that if the committee had its way about it the death knell has been sounded, and it should be, except for certain purposes. There should be a committing magistrate, but the justice of the peace as a trial court long ago grew into disuse; I think I can say that within the last year I have not tried three appeals from the justice court. I think if you gentlemen will look into the records from your county you will find that you don't elect over sixty per cent of the number of justices which the law entitled you to and of the sixty per cent elected but thirty per cent of those qualify, and of those who do qualify not ten per cent of them hear a case and decide a case once a year. I do not speak for Cook county; I know nothing about the situation there. The justice of the peace is a dignitarian who administers oaths, draws leases and performs marriage ceremonies. Outside of that he has lost his function. But my remarks are merely the voicing of my own opinion. The committee has thought better of the justice than I, and I take no issue with the committee upon that measure. However, there is between me and the report of the committee a gulf that cannot be spanned; while I endorse as a general proposition the proposal of the committees, they have recommended for your adoption a measure to which I am unalterably opposed. It is not a matter of detail, it is a vital matter; it is a matter of principle. I realize that there are men here, men who are learned in the law, men who have given the subject very considerable thought and study and have come to the conclusion that the election of Supreme Court and circuit court judges is not the best, that these judges ought to be appointed. The committee provides for the election of the justices of the Supreme Court and of the judges of the circuit court, but if you will notice their plan contains two provisos of some importance, to-wit: Provided, however, that the General Assembly may by law provide for the appointment of justices of the Supreme Court and judges of the circuit court. I cannot agree with the committee upon that question. I profess no profound understanding or knowledge about what may be done in Canada or in New Zealand or Australia, or in other places outside of this government; but I can conceive that there is a big difference between the political institutions of New Zealand and America. I believe we are big neough and great enough to have our own system, and we have problems that were never dreamed of in New Zealand; we have had our own experiences, we have had our own history; we can look and we can read and then we can understand. Let me say to you gentlemen that Illinois is no novice in this matter. She has tried both plans. In 1818 when the Constitution was adopted it was provided that the General Assembly on joint ballot might elect the judges of the Supreme Court and judges of the circuit court. It provided for the election of a chief justice and three assistant justices. When the General Assembly met at the seat of government the hungry office seekers of Illinois gathered together in some of the political plums. The General Assembly did not provide for circuit court judge but did provide for the appointment of the chief justice and assistant members of the Supreme Court as had been authorized by the Constitution and two of the members that were appointed at that time were not even members of the Bar, and one of them afterwards proved himself to be a notorious swindler who had not lived in this State three weeks at the time he received his appointment, but who had gained favor in the legislature by his blandishments and his affable manners. He was assigned to a circuit court along the counties of the Wabash, and so cognizant was he of his own utter lack of capacity that he never went near to a court to which he had been assigned, and after the first pay day he pocketed his salary and left the State. These judges under the Constitution of 1818 were to serve for a term of four years and then, upon election by the General Assembly, they were to serve during good behavior. In 1824, when the terms of office of these men were to expire, the General Assembly had provided for the election of five circuit court judges as well, and thereafter it had to elect four Supreme Court and five circuit court judges. As an evidence of the political manipulation of the day the chief justice of the Supreme Court and one

of the assistant justices failed of re-election. After a spirited contest the legislature elected five circuit judges. One of the circuit judges went down to Madison county and he removed a clerk by the name of Conway, and Conway became offended and he announced himself a candidate for the State Senate, and was elected. And he came on to the General Assembly at its session and, through his influence and the influence of the men who had been defeated by the legislature two years before in their candidacy for circuit judge, the law was repealed and the circuit court and all its judges were abolished after two years time to suit and to satisfy the vengeance of disgruntled politicians. We did not have any more circuit courts then until 1835 when the legislature provided for a circuit court and for the election of nine circuit judges. In 1838, three years afterwards, Thomas Carlin was elected Governor of the State of Illinois. He conceived the idea that it was his right to appoint a secretary of State. The secretary of State had been appointed by the first General Assembly. His name was Field. He thought he held a life tenure. There was no provision concerning tenure in the Constitution, and the legislature had failed to enact any bill or law respecting it. Carlin wanted a man of his own political faith. He was a democrat. He removed Field and he appointed John A. McClernand, afterwards a Brigadier-General in the Union Army and member of Congress from the State of Illinois. Field refused to give up his office. McClernand instituted a quo warranto proceeding before a circuit court judge. The circuit judge was a democrat and he decided in favor of McClernand. Field appealed and the case came to the Supreme Court and the Supreme Court in a very learned opinion handed down by Chief Justice Wilson held that the Governor had no power to remove the Secretary of State. This decision of the Supreme Court was counted upon by the democrats as being a partisan decision, and it inflamed them, and in 1840 the democrats carried this State over-whelmingly and they elected a large majority of Senators and Representatives. In order that they might punish the judges for their so-called partisan opinion and to control the alien voters contest which was then going on in Galena, they passed the law increasing the number of judges of the Supreme Court from four to nine, and they abolished the circuit court. This was a bitterly contested case and among others Stephen A. Douglas represented McClernand. Carlin forced a bill through with the help of his political cohorts and the Circuit Court was abolished and five men of democratic persuasion were appointed upon the Supreme bench and of that five men one was the man who was to take the democratic nomination to succeed Carlin and a particular friend of Carlin's; another was a circuit judge that had decided the case in favor of McClernand, another was, Stephen A. Douglas, an attorney for McClernand and the others were faithful partisans; this condition was bound to incense the people. The people will not tolerate legislative influence in judicial matters and they ought not to tolerate judicial interference with legislative matters. One is as rotten as the other. So in 1848 the people voted for a new Constitutional Convention, and with all this history before them, with all this light to guide them they ordained that the judges of the Supreme Court and circuit court of this State should be elected by the people, and not from that day to this has there been a political scandal involving the courts of any magnitude whatever. In 1870 the lesson was not forgotten and again the Constitutional framers in their wisdom said your judges shall be elected. Ah, yes, you might say that these facts which you give occurred in times when Illinois was an embryo State, when pioneers were rough and had rough ways, but gentlemen, let me remind you that of the men who took part in the McClernand case, the men who packed the court that controlled the election of the State the next succeeding election and gave to Carlin the right to name his own Secretary of State, there were two Governors of Illinois, there were two men who afterwards represented this sovereign State in the Senate of the United States; one of those men left his imprint upon more different legislation than any other senator who ever occupied a seat in that body before his time or since, Senator Shields who represented Missouri and Minnesota in the National Senate, and today his statute stands alongside

that of the immortal Lincoln at Washington in the Hall of Fame, placed there by the decision of the General Assembly of the State of Illinois at a very recent date.

Illinois has not been alone in its bitter experience. I know not what New Zealand may offer, I know not what a study of the history of Massachusetts may show or certain isolated districts around San Francisco may tell, but you speak of the Federal bench, the Federal bench has been a credit to the United States, and I have not a single word of criticism to offer against any man who has occupied a place on the Federal bench, but let me tell you the very method by which these men are selected has brought scandal and reproach upon the court time and time again. Away back when Adams was going out of power and when his hated rival, Jefferson, was coming in, Congress gave Adams power to make many appointments. On the last day of his administration he kept busy making those appointments and the Senate sat in session until after nine o'clock to affirm them. John Marshall, than whom no brighter name is on the rolls of the judiciary was his Secretary of State and he had been appointed and affirmed as Chief Justice of the United States and continued to exercise his office as Secretary of State and he stayed late into the night signing these appointments. After midnight came Levi Lincoln, the man appointed by Jefferson to be his Attorney General, walked into the Secretary of State's office and told Marshall, "The hour has come when Jefferson is President, and he has taken up the office; lay down your nefarious pen," and the great Marshall, confused and disturbed, arose and left the place, and while it can be said that Adam's appointees were good men and who made good officers, none of them ever lived long enough to live down the stigma of their midnight appointments.

Some time before the great Civil War broke out, the Dred Scott decision was handed down by a divided court; Chief Justice Tainey wrote the opinion. In a little while the democrats were put out of power and Lincoln was elected; Justice Tainey was in bad health and the republicans were afraid he might die and Buchanan would appoint his sucressor as Chief Justice of the United States Court, when Ben Waite of Ohio said that the republicans got together and prayed fervently and long that the Lord would spare his life until Lincoln was inaugurated. Tainey did not die but lived three years to plague the abolitionists and then it was said the republicans had prayed too darn hard. When Lincoln was elected they increased the number of circuit court judges to ten. Tainey dead, Lincoln dead, Andrew Johnson became President. They could not bear the thought of Johnson appointing any members of the Supreme Court, so Congress passed a law by which it reduced the number of Supreme Court judges from ten to seven, but provided that the number should be decreased down to seven as the vacancies occurred by vacancy or otherwise. That made it impossible for Andrew Johnson to appoint a Supreme Court judge. Grant was elected and he took Johnson's place. The Congress of the United States immediately passed a law increasing the number of judges of the Supreme Court from seven to nine. In the meantime Judge Greer had resigned, Judge Swayne had died, and Grant made two appointments to the Supreme Court of the United States. Apropos to this the Civil War had gone on and the Union needed money to carry on the war. It did not have enough gold or silver to pay the expenses; the Constitution of the United States said that Congress shall have the power to coin money and regulate the value thereof. At their wit's end, Congress provided they would coin money out of paper and so they issued green-backs by the millions and carried on the war with it. Early in Grant's administration somebody contested the legal tender and a divided court decided that the green-backs were not legal tender, were not valid money. On the very day the decision was handed down, President Grant appointed two new members of the Supreme Court of the United States after they had been sounded out as their views on legal tender; and as soon as their nominations were affirmed the Attorney General made an application for a rehearing of the legal tender case, the application was granted and the Supreme Court of the United States reversed itself on that important question with and by the votes of the men who had been appointed for the place.

These are facts, gentlemen and are unvarnished and cannot be successfully challenged, I think.

Most of you are able to remember the serpentine conduct of some of the members of the Supreme Court when the income tax case was before it, but gentlemen, I am not here to bring an indictment against anybody, I am here to bring an indictment on the question of selection of judges by any other power than the people, and I don't claim to be one of the strongest dyed-in-the-wool vox populi fellows either. I have been rather conservative all my life in my views, but I say to you it is a dangerous proceeding to let one branch of government get its controlling hands upon another branch of government. That when you do, if you never have any misfortune it is your good luck and it is not because of the wisdom of the provision that gives one branch of government control or influence over another.

I know that you can go back and you can find good decisions, righteous decisions entered and made by all the judges, whether they were appointed or whether they were elected, but I do say that when you have gotten political scandals involving the judiciary invariably you get them from an appointed judiciary, invariably. I do not believe that the executive and legislative branch of this State would attempt to corrupt in business matters a judge, but I do believe that the judges are made out of the same clay with the rest of us, and if the political power is strong enough it has its influence, and that it has such an influence is seen by the actions of the bar in the malefactions that have arisen from the justices of the peace to the Supreme Court of the United States.

I agree with the committee in its declaration that there should be a severance distinct and complete among the various branches of government, but I go further than that and I say to them and to you there can be no such severance so long as you give the power to another branch of government to control the judiciary. I thank you, gentlemen. (Applause.)

CHAIRMAN DEYOUNG. We will next hear from a member of the Bar whose career began at the Bar of Illinois and has been one of very wide experience; who served in the General Assembly for years and later in the Congress of the United States. Without any further introduction I call upon the Honorable Burnett M. Chiperfield. (Applause.)

Mr. CHIPERFIELD. Mr. Chairman and gentlemen of the Convention: I do not come to you with any mandate from any large body of citizins of the State of Illinois and bring to you their demands; nor do I suggest to you if you do not conform to the views which I express that the Constitution is inevitably bound to failure when it is submitted to the people of the State of Illinois. I take it that is a matter that this Convention should not and probably will not give a great deal of concern to in its deliberations, what action the voters may take upon the work that is done by this Constitutional Convention. You will do, without doubt and question, the thing that seems right, fit and proper to you and you will let the consequences as to the adoption of this Constitution be what they may.

There is one thing, gentlemen of the Convention, that it seems to me cannot be ignored, and that is the very radical character of some of the provisions of the proposals not only coming from the Bar Association of the State of Illinois, but from the proposals that have been submitted from the floor of this Convention. As one reads the report of the Bar Association, proposal number 56 and other proposals, he cannot help but wonder if the spirit of radicalism that is so prevalent today has not penetrated the proposals and affected the proponents of them in offering this wide departure from our accepted standards of the State of Illinois. A mere inspection of these various proposals makes one pause; I am frank to say they contain startling possibilities. We, in common with the Constitution of the United States, have been clothed with the triple power of the three branches of the government of the State of Illinois. There has been a judicial, executive and a legislative, but an inspection of these proposals show a very great enlargement of the power of the judiciary, and you might say a startling innovation of the power of the legislative branch of government, and unwarranted enlargement of the executive department of the government in the

appointment of judges of our courts. The divisions of the government that have been outlined and made in the past have been found to be salutary and the system of checks and balances that were thought to be wise by the founders of the public have in practice turned out to be wise in the administration of the affairs of the State of Illinois.

I am not going into these matters in detail, but when it is provided that all the judicial functions of the State of Illinois, using the common parlance that all men will understand, shall be let out to the Supreme Court of the State of Ilinois, it is a proposition with which I cannot and will not agree. I simply speak for the practicing lawyers of the district from which I come. I have been at the Bar for something more than 25 years. I am expressing the views that have come to me as a result of this pracitice. For the Supreme Court of Illinois as a body of review, of Appellate jurisdiction, I have the most profound admiration and respect. I care not what men may say, it is one of the great courts of the United States, and while exercising that function has made a record that is a credit to any state or to any court or to any tribunal. But, because it has made this kind of record and because upon the bench of this court has been found the high class and character of men that have adorned this court, it does not occur to me that this court should be given supervision and control of all the courts in the entire State of Illinois, and with power to pass rules that will regulate the practice of the court and with power to go to the legislative and law making body of the State and lay down an estimate of appropriation and say to the legislature, "You shall make the appropriation that the Supreme Court of Illinois says you will make." It is unprecedent and it occurs to me it is unwise in the extreme.

So far as prescription of rules by the Supreme Court is concerned, this is a step that goes further than any court of the United States. They talk of the rules of the Supreme Court of the United States being made by that body. That is only true in a very limited sense. The Congress of the United States has laid down for the guidance of the Supreme Court and for the other Federal Courts the rules of practice that shall govern and shall control them, and the rules of the Supreme Court are few and they are of long standing and they are of simple character, and to say that the Supreme Court of the State of Illinois shall make the rules of procedure, shall define what its jurisdiction shall be, enlarge it, limit it, alter, modify it, let it be one thing today and another thing tomorrow as suits the purposes and exigencies of the case, is certainly a step that is being taken in the dark. The Congress of the United States has always reserved to itself the right to say what the practice and the procedure of the courts of the United States shall be, and except where it comes in conflict with the Constitution of the United States they have always determined questions of jurisdiction for these courts.

What is the proposition? That seven men who are of no greater capacity than you will find in this body, men of upright standing and character it is true, that they, without let or hindrance, shall prescribe what shall be the jurisdiction of substantially every court of the State of Illinois, that they shall provide rules of procedure, that they shall have the power of reaching out and adding judges to courts and taking judges away from courts, that they shall supervise the practice of courts and that they shall entirely regulate the judicial department of the State. It is a proposition that I say to you the Bar of the State of Illinois will not assent to, and if the Bar of Illinois does assent to it you will find the soverign people of the State of Illinois will put their veto on it when the opportunity is given, because the people of the State of Illinois are jealous of their courts. If you think they are detached from them, and it is a matter of indifference how they are constituted or how the judges shall be selected, you have made as grave a mistake as ever was made in your lives. They are jealous of the character of their judges. They are jealous of the manner of the selection of these judges and it is a matter that is of great pride and of great value to them, that they have the right to go to the polls and make the selection of the judges who will try the causes of themselves and neighbors and preserve law and order in the State of Illinois; it is a privilege that they truly value.

Now, men may say, "Let us follow out another system, and let's appoint." I believe in calling a spade a spade, gentlemen; I have been closely associated with the government of Illinois for many years, and there never has been a day since I have been associated with the government of the State of Illinois that I would be willing for any Governor, who ever sat in the Governor's chair of this State, to appoint the judges of this State. (Applause.)

There have been political questions on redistricting that have come before various courts. No man can suggest that these people who have been elected by the soverign voters of the State of Illinois have yielded to any other influence than what they believe to be just, right and proper in the awarding of their decisions.

I have not the faintest question that there has been time after time within the history of the State of Illinois, since I have been of an age where I would know and understand what has been going on, that, if appointments could have been made to the judiciary of the State, that they would simply become cogs in the political machinery and respond to the power and the will of the man who made the appointment. It would be a condition that would be intolerable and disgraceful and it is a condition that will be repudiated by the people of the State of Illinois if you fasten it upon them.

So far as our Supreme Court is concerned it has been a body that has been a matter of pride to the citizenship of the State. They have performed their duty. There have been some flies in the ointment, as there have been in other governmental activities, but so far as honor, integrity and justice of the Supreme Court of Illinois is concerned, no man can impugn it, and that has been true of the other courts of the State of Illinois.

While we are upon the subject of the Supreme Court, let me say this: Some eight or ten years ago, while a member of the legislature of this State, at the solicitation of those who were much interested in the Supreme Court and some of the court itself, I introduced a bill in the legislature of the State of Illinois providing that one of the methods of entering the Supreme Court should be by the writ of certiorari. I am very frank to say when I presented that bill and assisted in its passage, I made a grave mistake, and one that has not been beneficial to the litigants of the State of Illinois. I believe that the Constitution of this State should prescribe definite conditions under which appeals should lie and that when those conditions are prescribed, that the door shall be open to everyone who cares to enter. (Applause.) And that there shall not be a sub-rosa—let me make myself plain—that there shall not be a sub-rosa investigation of the case. I do not mean by that anything improper. I mean no judge should take an abstract of the case and the record and the brief within the narrow limits within which they permit it to be presented to the court and sitting there pass upon the matter alone and determine whether or not that litigant should have the right of appeal. In the Constitution the mode of entrance to the doors of the Supreme Court for the determination of a case should be so plain and so easily accessible that it is available to every man who has a case wherein he feels he has received a grievance, and I am very frank to say that I regret that I was a party and assisted in the passage of the law concerning the writ of certiorari.

While, we are upon this subject of appeals, it is a matter that you might very well give your consideration, so when it comes to letting out to the Supreme Court of Illinois all the judicial functions that affect the rights and the safety and the welfare and the dignity and the laws of six millions of people it occurs to me you are putting too much of a burden on the Supreme Court, and I know the character of these men so well that I do not hesitate to declare to you that they shrink from the burden you impose upon them. It would not be helpful and it should not be done.

In this day when there is so much of unrest and the whole world seems to be unsettled, I know not the cause of it, there is a great passion on the part of men to adopt anything because it is a change, but it occurs to me it would be well to take counsel of Paul who said, "Prove all things, hold fast to that which is good." It may be a sheet anchor at this time.

The administration of justice in the Supreme Court of the State of Illinois is the peer of the administration of justice in any court of all the United States, and why change, alter and modify the system is something that I cannot comprehend.

I want to come to the Appellate Court: The Appellate Court of the State of Illinois should be constituted as a definite and a distinct court; it should not be the branch of any court, it should not have judges upon it who sit on the nisi prius bench. It is a principle of law that is very well established that no man shall be a judge of his own case. When a man has tried a case, unless he is more than human, you cannot tell me that he is not interested in the result of that case when it goes to the court of appeals and does not desire to have the verdict or judgment stand. You may say he did not sit directly in that case. That is all right and the lawyers who have been practicing before that court, we know exactly what it means. We know that the judge is affected by the fact he sat in this case, and if it is to be reversed it is because of his error, and we have seen the injustice it has worked upon more than one occasion.

The Appellate Court should consist of the number of judges that is required to carry on the Appellate work for the State of Illinois. In a large number of cases its jurisdiction should be final and, wherever there is an appeal from the decision of the Appellate Court, it should not depend upon the permission of the judges who had decided the case. If judges have decided the case where there should be right of appeal, the right of appeal should exist without their permission, because they are reluctant many times to have their records reviewed. The Appellate Court as a separate court with a judiciary elected to sit upon its bench that has no other duties to perform would give a great deal better service than is given at the present time, and our Appellate Courts as now constituted are worthy courts. They have very good records and will compare with Appellate tribunals in many other states. I do not hesitate to declare that no circuit judge should sit on the Appellate bench, that appeals should be free and without any condition except the right that is general and should not be a matter of favor or discretion, but a matter of absolute right. Let me say while on this subject so far as the administration of justice in the courts of Illinois are concerned, compared with the administration of justice in the federal courts, the State of Illinois has no cause to blush for the comparison or the result. Our judges are elected. Our judges come from the people. In the Federal Court the judges are appointed and their appointment is dictated oftentimes by political considerations that do not enter directly into the choosing of the judges of our various courts, and the result has been far from satisfactory time after time.

Upon the question of a county court I wish to say just a word: I am frank to say I am opposed to the proposition of a county court. For many years, in fact I think it is since about 1850, the circuit court of the State of Illinois have been functioning as such; they are courts that possess the confidence of our people. The judges who sit upon this bench are looked up to as men who have been set apart to minister in the temple of justice, and although I have had disappointments in the courts I have never seen the time in my experience or have ever heard the statement made by any man, who ministers at the Bar, that the decision of a circuit court judge of this State was obtained by corruption. I have never known of that charge being made in the State of Illinois. These men have maintained a dignified court, a court that is easily accessible to the people, a court that has admirably met the wants and the needs of the people of the State of Illinois. Now, it is proposed in some of these proposals to abolish the circuit court. I might ask what is the reason for the abolition of the circuit court, and the only answer that can be made is that in some of the circuits that some of the counties do not receive the amount of courts to which they are entitled and the judge's time is so taken up that the smaller counties cannot have the attention they should have and their needs demand. That is a matter of detail, it is not basic. If there are not enough judges in your

circuit, you can get elasticity with the legislature determining how many and give the counties that require more service the service they should have.

Let's see how it would work out with one judge functioning. If there is any court in the State of Illinois that has been the people's court, where access has been most easy and where practice has been most simple and where justice has been most manifest, it is the county court. It is said in the State of Illinois that every forty years there passes through the probate or county court all the property that is located in a county. Here the executor and the administrator, and the widow, and the orphan, and the guardian, and those who are appointed by this court come and sit down before the judge and they go over the accounts, go over the condition of the estate, and all matters are talked over patiently and the legal difficulties of those who have the management of these estates are heard by the county judge; sometimes he is able to grant them absolution and gives them a new start. This judge is essentially the advisor of the families of the deceased, and the character of man who sits as a judge in this court is a man peculiarly adapted to that kind of work. The qualifications of a nisi prius judge are essentially different. He must be intimately familiar with the questions of evidence and law that arise upon the trial. One is more the accountant, and the other is more the judge and the jurist. Let's say a murder case is coming on for trial in one of the smaller counties where the trial may last perhaps from one to three weeks and where every nerve of the presiding judge is strained to see that justice is done and the record is free from error. What is going to become in the meantime of those who have their probate business in the court? He is not in the frame of mind to sit down and counsel with them, he is not in shape to cast his accounts, he is in no condition to carry on the functions of the probate court. The very characteristics that are required of these two kinds of judges are entirely different and the one because he is a good administrator of the probate side, it does not mean he is the proper person to sit on the nisi prius bench in the trial of contested cases where lawyers are ready and willing to take advantage of every error.

The remedy is simple, and that is to have in the circuit of the State enough judges for the different districts and that would differ according to the needs and demands of that district to satisfactorily perform their duties. I have not heard an objection to the administration of justice in the circuit courts. I do not mean that errors have not been made, but it is a court admirably suited for the wants and needs of the people. If there is legislation that is required concerning terms and concerning some of the practice in the courts, that is a matter for the legislature to pass in the statute law of the State and not for a basic Constitution such as you gentlemen will adopt. I am not going to take your time, gentlemen, to dwell upon ths matter, except I want to say this, that the people of the State of Illinois are attached to their courts as they exist. I am not speaking of the City of Chicago, because I do not know the needs of the City of Chicago. My idea about the City of Chicago is that those who are most interested on that proposal ought to determine the kind of courts they need and they ought to be given the kind of courts that will fit their demands. There is just as much difficulty in trying to fit the State of Illinois and the City of Chicago with the same garment as there would be to try to fit a man weighing 300 pounds and a child in swaddling clothes with the same suit of clothes. The demands of the two communities are different. So far as the country is concerned, we take much pride in the administration of justice by our circuit court. We have vast confidence in the circuit court of Illinois. As a people we feel we are protected in our rights, and while injustice may obtain in cases it is always the lawyer's privilege to go over to the tavern and curse the judge, but it is neither the privilege of the lawyer or voter or citizen of the State of Illinois because of some isolated case to tear the entire system to pieces. As long as we are well served it seems to me we should adhere substantially to what we have.

There is going to be a vast number of proposals that will be new and startling and will be uncertain in this Constitution, but there is one thing

that the people would like, and that is when this Constitution is adopted, if that should be its fate, at least they know the character and the quality of the courts that will pass upon these questions, and if you destroy the basic law of the State of Illinois and substitute a new Constitution and a new court then you have simply piled confusion higher, and I bespeak before these radical changes are made that you give the matter the utmost thought and consideration, and out of the judicial system of the State of Illinois as it exists now, with its wealth of precedent, with its wealth of decisions, that questions that are satisfactory and determined by legislative and judicial construction and law, that you do not substitute something for it that is simply a leap in the dark. I thank you for your attention. (Applause.)

CHAIRMAN DEYOUNG. We will now have the pleasure of hearing from the Honorable L. D. Yager, judge of the city court of Elgin.

JUDGE YAGER. Mr. Chairman and gentlemen of the Convention:

When I had the honor to receive an invitation to address this Convention from the chairman of your Committee of the Whole, I promised him by letter, as I shall promise you now, to make my remarks short.

I have nothing to say with reference to any other court nor to any other phase of the judicial question that is now confronting the State of Illinois other than from the angle of the city court, and for that reason my remarks necessarily must be brief.

I have heartily enjoyed hearing both gentlemen who have preceded me and most heartily do I agree with them, not only in the sound declarations specifically stated, but in the innuendoes drawn that the judicial system as it exists in the State of Illinois today shall not be disturbed.

I had intended to say something of the Constitutions that have preceded this, but Judge Jones took it off my hands, but let me make this slight allusion to the three Constitutional Conventions that have preceded this Constitutional Convention, this being the fourth in the State of Illinois, and say this: That the city court either existed or had the right to exist under every one of the Constitutions of the State of Illinois, because the State Constitution of 1818 gave the right to establish a Supreme Court and such other courts, and while the language has been changed in the various Constitutions the effect and the essence of that has never been changed, and city courts have had the right to exist every since we had a Constitution in the State of Illinois. I do not remember when the first one was established but I believe it must have been along in 1835. At least we have a record in the court over which I now preside that the murderers of Elijah B. Lovejoy were tried there about the year 1838, Judge Martin presiding. Lovejoy was assassinated in 1837 and the trial came up about a year later. It was stated in some of the counties there was not business enough to occupy the time of the circuit judge except for a few weeks. Let me state to you one instance in the County of Calhoun where the circuit judge came down and found one case on the docket, one case, and it happened to be a chancery case. That is what he found. Under the proposal of Bill 222, I just want one word at that—It would have a circuit judge in every county and I believe the salary was fixed at $12,500. What a lovely time the circuit judge of Calhoun would have with an average of three or four cases a year to try. The absurdity of that and other provisions in that Bill 222 I take it are so great that they will not even receive a moment's consideration at your hands.

The city court as now constituted is the circuit court within the city for which it exists. It has concurrent jurisdiction with the circuit court in everything except that in processes of law the person who is the defendant must be served with that process within the city limits, it being simply a territorial limitation, and any matters pertaining to foreclosure or petition of the State, that the property must be within the territorial limitations of the city for which the court was established.

Now, let us see, let us take the County of St. Clair and the County of Madison: In each of these counties there is a circuit court in which most of the time there are two divisions, two judges presiding, and there are also two city courts. I speak of the city court of East St. Louis, which is in St. Clair county; it has two judges and they relieve much of the congestion at

Belleville. In Madison we have two city courts, Granite City and Alton, and we have the same condition with the circuit court at Edwardsville, that much of the time there are two judges presiding in the circuit court. I say this, in counties of these classes in cities of the size to be determined perhaps by you, that there should exist a city court and I think I can demonstrate it beyond preadventure of a doubt that the city court is just as much of a necessity as the circuit court. And I say, let it have the same dignity, let the judges be of the same equality, let them have those high ideals and the legal and technical qualifications that will fit them not only to administer to the satisfaction of their city, but to the satisfaction of the whole people of this great State of Illinois.

Now, let us see: Under the law first offenders, especially boys, are permitted to be let out on parole, and when I first came into office I was given to understand that one of the best things I could do was when first offenders came before me, to give them the right of parole. At this present time throughout the length and breadth of this land we have a movement looking toward the uplift of the boy. We are laying the foundation today for the social structure of tomorrow and that must be built upon by the boy. I say this because there are many boys who commit an offense and if given a chance will reform and become good citizens later in life. Those boys, if sent to the reformatory of the State of Illinois have that stigma upon them, and instead of coming back from there reformed as you would have them they come back with a stigma of the boy's penitentiary hanging over them and carry that stigma throughout the term of their natural lives. If you give them a chance, the chances are that they will become better citizens.

Let me say I have perhaps twenty-five boys and girls now either paroled under the criminal laws or under the charities as juvenile dependents or delinquents. The functions of the city court there is this: It is close at hand, it can watch this boy and girl, if you eliminate the city court they must go to your county seat where the judge has not that close association, that close acquaintanceship with the litigants in the case, with these persons who have been made the defendants in these various forms of action and cannot supervise it like the judge of the city court can supervise it, being right at home. Let us take the trial of the case: How often it has happened to me in going to Edwardsville; I have waited three days and not had the case reached and go to the foot of the calendar, be there with witnesses and wait three days. If we were trying the case in Alton and we want those witnesses present we simply tell them to "stay at your place of business until you are wanted and we will telephone you." We do not have to drag you to the county seat and make you lose three days' time, and it frequently happens that cases set down for hearing are not called at all and the witnesses go to the county seat and have all that time and money only to be wasted, whereas if the matter had been brought in the city court they could try it there and nobody would lose anything by it.

Again in the system of Americanization: Federal authorities at Washington, acting through the Bureau of Naturalization, keep close watch over the foreign element to be naturalized, and let me say that Richard Campbell of West Virginia is doing a great work, and that work is passed first from him to the judges of the court who in turn cooperate with the school authorities, so that the complete chain is kept on the foreigner to see that he has gotten the proper education and receives the proper qualifications to later make him a good citizen in this community.

Throughout the State of Illinois there are 28 city courts with 29 judges, two judges in East St. Louis. I maintain they have exercised a great aid, a great help to the circuit courts in the counties in which they exist, that the people who live in these cities have a chance to have their cases litigated, their matters disposed of at far less inconvenience by operating through the city court than if everything was brought in the circuit court. Of course you might say you would put more judges in your circuit court. True, but do you not remove the hamper and great inconvenience that will come to hundreds of thousands of people who will be affected by this provision, or perhaps practically the population of the city court.

As I look at this? I think it is one of the most useful courts in the whole system of courts. I have heard nobody ask that they be abolished. I have heard no cry from any source whatsoever. There has been no indictment against any judge either as to his integrity or qualification, and so in conclusion let me say to you that bear in mind—and I would refer you to the remarks of the gentleman who last preceded me—that the people of the State of Illinois do not want any change in the judicial system, that is, no substantial change. Let it be as near as possible as it is now, and as it has been since 1818, as it was through the Constitution of 1848; as it was through the constitution of 1870; let it be said that the Constitution of 1920, after 102 years from the date of the first Convention that we have followed in the good and wise footsteps of that Convention, and that we have let the judicial system be what it is and what it has been.

I thank you gentlemen. (Applause.)

CHAIRMAN DEYOUNG. The next speaker comes from that neutral zone where his perspective is clear; not from the City of Chicago nor from the State outside of Cook County, but from the great agricultural district in the southern part of Cook county. He is the great grandson of Shadrach Bond, the first Governor of Ilinois. I take pleasure in presenting Craig A. Hood, the former mayor of Chicago Heights.

Mr. HOOD. Mr. Chairman and gentlemen of the Convention:

I come here representing the Chamber of Commerce of Chicago Heights, the local lawyers, the local bar association of Chicago Heights, the Mayor, the City Council of Chicago Heights and I believe most of the people of Chicago Heights, and we come to you not to request you to make any changes in the fundamental law of the State (we will be satisfied with what you do) but for relief in our own situation; and the reason that we are asking you for this relief is because we need it and because during the next fifty years the district that Mr. DeYoung has called the agricultural district in the southern part of Cook County is going to have a tremendous population.

Chicago Heights is twenty-seven miles south of Chicago, on the Chicago and Eastern Illinois Railroad, with a population of from twenty-five to thirty thousand people. It is a manufacturing community with from fifty to fifty-five factories of all sorts, steel mills, car shops, glass factories and foundaries of different kinds, and of that population of twenty-five to thirty thousand people, probably fifty per cent were not born in America, but were born in one of the countries involved in the late war.

Chicago Heights is a small part of the great industrial district that begins, not in the State of Illinois, but begins over in the State of Indiana, over at Gary, comprised of Gary, Hammond, Indiana Harbor, East Chicago, and then the Illinois towns along the State line, Chicago Heights, Harvey, Blue Island, Joliet, making what is called the Calumet district, and that goes clear up into South Chicago, into the limits of the City of Chicago; the people making up that district are the melting pot people, and these men have problems that are entirely distinct and problems that you will not find in the rest of Illinois, and they require the highest amount of ability and skill, the highest amount of patience and the greatest care and attention, or, instead of producing American citizens, you are producing Bolshevists, Reds, Anarchists, and we do not want to do that in the Calumet district, whether in Illinois or Indiana.

Now, the essential thing that these people must have confidence in is the judiciary of the district where their cases are tried. They have many cases, in our city probably 3,500 a year and in the other cities in proportion, and these people today are at the mercy of the justices of the peace. Judge Jones said that down state the justices of the peace are almost forgotten. We cannot forget him in our district; we have the justice of the peace, he is continually with us and he is absolutely in evidence. I know one justice who was a professional operator of slot machines, a promoter of dog fights and chicken fights. The percentage of justices of the peace who are indicted is larger than the percentage of any other profession in the City of Chicago Heights. We have many embezzlers, bribe takers and bribe

givers among these men; I prosecuted one man for illicit whiskey selling in violation of the ordinance of one of the villages and when I saw him later he was in his court where he was presiding, and to these shepherds we turn over our new citizens, the men who volunteered splendidly when the war came, to die, probably, and who make good citizens if you give them a chance. We turn their quarrels and difficulties over to these men who are notoriously and outrageously unfit.

I think Sheriff Traeger will tell you I am not exaggerating, because he has had to go forty miles to bring prosecution in the southern part of the county.

The thing that will appeal to most of you is the speed prosecution. While I was in office I had to deal with five or six or seven pestiferous speed cops; these men worked with a constable and motorcycle officer and robbed the silk stocking people who went through; they soon got tired of it and they put a stop to their game, but the foreign people have been subjected to that sort of treatment for a great number of years.

We have splendid courts; we have lawyers of ability, judgment and probity who are well able to administer our little city court, but in 1870 when the last Constitution was framed a provision was put in it that no criminal case or quasi-criminal case in Cook county could be tried anywhere else than in the criminal court, so when you have an appeal from a justice's court involving five to twenty dollars, if we followed the appeal, if we went to collect the money for our municipality, we would have to go to Chicago and take a number of witnesses in on several trips. You can imagine the result. There is a complete breakdown in the administration of petty criminal justice.

I had the Chief of Police prepare for me the figures in our community on arrests, and I think with your permission I will read them. They are brief. In 1916 there were 1,386 arrests; 1917, 1,552; 1918, 1,033; 1919, 1,237. We had a number of murders; many murderers were not prosecuted. The man who is guilty of the ordinary garden variety of larceny or ordinary embezzlement, or the average crime that is prosecuted in nearly every other part of the United States is perfectly safe over in Chicago Heights because we have no courts with criminal jurisdiction, and it is too much trouble to follow the case to the north side and drag witnesses to town and spend hundreds and hundreds of dollars to send him to the pen for a year or so, so what do we do? Case after case we charge them with disorderly conduct, fine them fifty to two hundred dollars and try to send them to the Bridewell. We have not anything down there to help us in enforcing the law in a community that is going to increase in population faster than any community in the State of Illinois. When you have a condition like that, what does it mean? It means that those foreigners do not believe that the law is on the square, but believe that the high officials are just as crooked as these petty officials that they come in contact with, who make a practice of bleeding them and collecting fines and graft from them.

Now, gentlemen, if you perpetuate that system you have created a political office that will be worth $25,000 a year to the man who gets it and I believe there is not a reputable lawyer in our whole district that would run for the office.

Mr. MAYER (Cook). What do you recommend?

Mr. HOOD. Give us a court, call it a circuit court, branch of the circuit court, call the judge the municipal judge, assistant judge, or anything you want to, but give us a court of record, or make the Constitution so elastic that if you don't give it to us we can go to the legislature and get one, a court that has jurisdiction in criminal cases concurrent with the circuit court, and also has the petty jurisdiction concurrent with the jurisdiction of the municipal court. We don't want the justice of the peace, we want to be rid of the justice of the peace, because we want to protect our people from that system. It is not an obsolete system with us, it is an active, vital system and a very pernicious one. You can save us from that. Call it a branch of the circuit court, and then if we are earnest enough, and make ourselves heard enough, they will assign us a judge down in Chicago Heights. If

the justice of the peace court is bad for Chicago, it is equally bad for Chicago Heights, with its population; give us the same deal you give Chicago and we will be perfectly satisfied.

In our little city court we try many cases; we try a good many assumpsit cases.

Mr. MAYER (Cook). Has the city court criminal jurisdiction?

Mr. HOOD. No, sir. We have tried 144 divorce cases and damages amounting to $181,000 in tort cases; we have tried a number of chancery cases, and our jurisdiction is limited, no criminal jurisdiction and not the jurisdiction that the municipal court has. The big cases, it doesn't make so much difference where they are tried, because the litigants can afford to travel into Chicago and wait two or three years; the corporations and the big business men and the old American families can afford to do that, but not our foreign population. The jurisdiction that the municipal court has is the jurisdiction we want for our court. Whether it be a branch of the circuit court or the municipal court or any other sort of court, we want a court of record. If you cannot give us that, at least leave the Constitution so elastic that we ourselves can get rid of the justice of the peace. Give us a change with the legislature. Do not saddle them on us by constitutional amendment that will keep our hand tied for fifty years as the constitutional amendment of 1870 has kept our hands tied for fifteen or tweny years.

Mr. MICHAL (Cook). These justices of the peace are elected by the citizens of your community?

Mr. HOOD. Yes.

Mr. MICHAL (Cook). If you get a bad justice, it is the fault of the electorate?

Mr. HOOD. Yes, that is right, but when you cannot get reputable lawyers to run for the office, what are you going to do?

Mr. MICHAL (Cook). Anyway the system itself is all right, you have no objection to the system?

Mr. HOOD. Simply the occupants of the office, simply the practices that they indulge in, simply the waste, the economic waste they bring about, simply the fact they defeat justice and have for fifteen or twenty years of our experience, simply the fact that the city executive cannot enforce his laws, simply the fact that Sheriff Traeger and I in some cases had to go forty miles to conduct two prosecutions; those are the only objections we have to the justice of the peace; simply that and the fact that they are licensing men to go out and rob our Italians, our Lithuanians, our Slavs, Poles and colored people.

Mr. MICHAL (Cook). What effort have the people made in Chicago Heights to eradicate these evils?

Mr. HOOD. On one occasion, when we simply could not stand for it any longer, we induced a reputable, decent young lawyer to run for police magistrate, and we forced the political organization to take him and put him on their harmony ticket. He improved conditions, but he would not do it twice; he said it put him under a cloud for four or five years. We did all we could to remedy the condition.

Mr. MICHAL (Cook). I take it that the citizens of Chicago Heights have some civic pride in their community and they would find some man capable of giving them an honest and capable administration.

Mr. HOOD. We have a police magistrate and five justices; I am afraid we could not find six candidates. We found one once. Another thing the speaker who preceded me has referred to and I might call your attention to, is the question of naturalization. There is a great saving if we could have enough power to naturalize our people. There were 1,491 declarations of intention and 432 petitions for naturalization last year. When a petitioner files his declaration of intention he has to go to Chicago, which means the loss of one day's pay, transportation and dinner; at the expiration of two years he files a petition for naturalization; he again goes to Chicago, takes two witnesses with him; this means a loss of three days, and in the course of two or three weeks he is called before the board for preliminary examination; again he goes to Chicago with the same two witnesses, meaning the

loss of three days' pay, transportation and dinners. At the expiration of ninety days he appears for final hearing; he is again compelled to bring the same two witnesses, meaning a loss of three days' pay, transportation and dinners, meaning in Chicago Heights a cost of ten days' pay, nineteen car fares and ten dinners, conservatively estimated at sixty dollars. Instead of the petitioner going to Chicago, the Government sends a man to us and the hearings are held on Saturday afternoons without loss of time or money. That is one illustration of the saving if we could have a court of our own, and the Government realizes that. Over in Hammond they even go so far as to hold court in the Calumet district because they realize it is more necessary that you have prompt and honest and capable administration of justice in this sort of district than in any other kind of district, because you injure the country more by neglect and procrastination by corrupting your new citizens, sowing the seeds of anarchy, and Bolshevism that has created so much trouble in Europe. Give us the court, you can do it by changing three or four words in paragraph 14 of this proposed amendment, making it read "that except in that part of Cook county not included within the limits of the City of Chicago the circuit court may create judicial districts wherein shall be established city courts, which shall be courts of record and which shall have jurisdiction as may be conferred upon them by the judges of the circuit court of Cook county, and justices of the peace in such districts shall be abolished."

Mr. MAYER (Cook). Write that out in the correct verbiage and let us have it. I think you can improve the verbiage.

Mr. HOOD. I will do that. Gentlemen, please remember the very great importance to Chicago Heights of careful consideration in this matter and give us a chance to eliminate the justice of the peace. We do not care how you do it, but give us a court. I thank you very much. (Applause.)

Mr. COOLLEY (Vermilion). Does the speaker refer to the justices of the peace over the entire State or in his particular district?

Mr. HOOD. Simply in my particular district, sir, in the southern part of Cook county.

CHAIRMAN DEYOUNG. The committee will now have the pleasure of listening to Mr. Horace Kent Tenney, honored alike by his professional brethren in Chicago and in the State. He was president of the Chicago Bar Association, as well as the Illinois State Bar Association. (Applause.)

Mr. TENNEY. Mr. Chairman, and gentlemen of the Convention:

The subject that is before us, to my mind presents itself with some logical sequence under the headings of procedure, consolidation of courts and the relation which these two matters have to the changes which are suggested in the report of the committee and which have special reference to the municipal court of Chicago.

Now, for many years we have had, those who have been experienced in the courts, have had before them the question of procedure, of practice and pleading, and included in those three subjects the means by which parties present their case to the court and the means by which the court arrives at a speedy conclusion, and throughout all the experience of every one of us who are lawyers we know that the tendency has been towards simplicity of procedure, towards a compact and easy method of enabling a party to present his case, of enabling the court to hear and determine the case unhampered by any rigorous rule of law, which deals and deals only with the method of hearing.

Now, it is not the function of a Constitutional Convention to determine the details of that method. It is its function only to assign to the proper department of the State the method of reaching the conclusion, and the question which would present itself to anyone interested in the proper decision of that question would be, which department is best fitted accurately and in detail to deal with this method. Is it the legislative or is it the judicial? That question seems, the more that I can hear presented here before you gentlemen and the more that I can hear outside, to have answered itself in the minds of all who have considered it, and that answer has been, that those who know from their experience, and their daily change in experience

what is needed for the simplicity of procedure, what is needed in order to divest the trial of a lawsuit of everything except the case itself is to have two things; to have the courts charged with the responsibility of formulating those rules and thus giving to litigants and to the people the benefit of their experience, of giving to the courts the power of change, the power of disregarding that which experience has shown is a clog and not an aid to the administration of justice, and of changing it repeatedly and not waiting for the session of the legislature to accomplish that which the courts see is needed, a thing in which the legislature may take no interest. So I hear nothing anywhere on the subject of the change in the method of procedure which will lodge that power with the court which furnishes an answer against the method which is proposed in this report.

Now, this naturally leads us to a question of jurisdiction, and you will see what is presented here is not that the Supreme Court should have the power of dealing with the jurisdiction of all the courts, it does give the power to regulate the Appellate jurisdiction of courts and to regulate the practice, procedure and pleading in the courts and fix general jurisdiction of the courts in the circuit court, and then leave the Appellate jurisdiction in the power of the Supreme Court, and if there is a body better qualified to judge of the needs of the State, to judge of the methods which will best deal with Appellate jurisdiction and Appellate litigation, a body better qualified than the Supreme Court, I don't know what it is.

We all know that a litigant is entitled absolutely to a trial of his case. He is entitled as a matter of fundamental right, of primary right, to his day in court, but it is not the same thing to say that when he has had that day in court and has met his adversary and has had the trial which the law accords him, he shall then have as an equal matter of absolute right the power of taking the successful adversary through the long ladder of appeals and making him justify in each one of those courts the decision of the court in which the trial has been had, and so it is proper, as it seems to me, to regulate Appellate jurisdiction in the manner in which we have provided here. Now, this question of procedure seems to lead by a natural sequence to the question of the consolidation of courts. If it is true that we can simplify the trial of cases, if it is true that in the simplification of the trial of cases we can get nearer together the court and the parties, that is because we are getting increased efficiency in the accomplishment of the ultimate result at which we aim, and if we can take that step we surely should take another step which will lead us in the same direction, and we should take just as many steps as will lead us in that direction and bring us to a safe conclusion.

Now, I hear nothing said against the idea of the increased efficiency which will result from consolidation. There is no reason suggested that impresses me with force why one court, possessing all original jurisdiction cannot through the branches which this sheme provides better exercise that power and that jurisdiction than by having it subdivided into courts whose jurisdiction may conflict, whose jurisdiction may be concurrent, and by its concurrence produce questions of conflict, and this scheme which is presented here eliminates and automatically eliminates the possibility of conflicts of jurisdiction.

We have had it presented here with great force, the hampering influence upon the power of the municipal court of Chicago under its enlarged, enlightened and elastic method of procedure, from the fact that when it passes fifteen dollars it cannot finally deal with a criminal whose offense ceases to be a minor one and becomes a felony, and questions of that sort, questions relating to the probate court, matters in which the probate court now is a step in the full enforcement of the jurisdiction, and the next step in carrying out its full purposes is constantly confronted with the hampering influence of the present system, and they will go by the boards with a consolidated court.

Now, what relation has this to the question which has been presented here with such great ability and with so much knowledge of the practical application of these methods, the questions presented by the municipal court

of Chicago and the court of Chicago Heights? I was impressed by what was said by the gentleman who spoke on behalf of Chicago Heights; I felt, as you did, I think, that he was literally speaking for Chicago Heights, and he was dealing with a situation there in which the present situation, whether it is an abuse or failure to co-ordinate as they might by electing ideal justices of the peace, whatever reason you assign to it is one which calls for the application of something in the nature of remedy, and by consolidating the courts in which all the jurisdiction is lodged in the circuit court of Cook county, with its ability to create departments, with the ability of the Supreme Court to take those who are called or miscalled assistant judges, and give to them power adequate to the situation, with the power which is thus given to the member to have a court sit in Chicago Heights adequate to the needs of enforcing criminal justice in that part of the county, it seems to me they probably would be satisfied.

I recognize, of course, that the scheme as outlined in the report still leaves the justice of the peace a factor of safety or a factor of evil, according to the individuality of the man who is put in office. The remedy for the evils portrayed by the last speaker would be brought about by simply abolishing the justice of the peace in the rural as well as the metropolitan districts, and that is a matter for your consideration.

Take this question of the municipal court of Chicago itself. There has been presented here with great force, I feel confident with great truth, that is with justification from the facts of its history the great good which it has accomplished, justifying the change in the Constitution which made it possible, justifying the high hopes which we had in the abolition of the justice of the peace court system, justifying the centralization of power in the hands of a chief justice, justifies the manner in which its business was carried on and according to the best executive methods, and there is no suggestion that this is to be abolished. There is no suggestion that the advantage which has been gained by those judges who have learned upon the bench a great deal of the administration of the law that they did not know when they went on the bench, who brought to the bench when they went there knowledge and experience and the earnest desire to gain experience and to apply it with accuracy, there is no suggestion that that is to be lost. One thing in the argument just made against the scheme which is proposed is in reality, I think, when we analyze and look at it frankly and squarely, we will recognize it is founded in its last analysis upon what may perhaps be a feeling of resentment at the idea of being called assistant judges, and it has given the notion—and I think I speak with perfect respect when I call it a notion —to some that they are regarded as assistants merely to those who are circuit court judges.. One speaker spoke of them as being clerks of the circuit court judges. Well, they are not clerks of the judges, they are not mere assistants of the judges; they are assistants of the court; assistants in the administration of that court of justice through the jurisdiction which is given and the Supreme Court is given the power of directing the jurisdiction and the power of fixing what they may do and giving to them the opportunity of carrying forward into this court all the efficiency they have learned through their past experience.

Gentlemen, we are not dealing here with persons or with personalities; we are not dealing here simply with the incumbents in any office, we are dealing with the ideal situation which may be created as a permanent thing for this State and the greater element of permanence which we can change. We could not justify the framing of a Constitution with reference to the personality of an incumbent in office, whether he is good or whether he was bad. It is the system with reference to which we must deal and the working out of that system through a long period of time which we must keep clearly and constantly before us, and so I think that these men, who now are judges of the municipal court and who are to be carried over into the circuit court with its new jurisdiction and its consolidated feature, need not feel that there is in carrying them over and giving them these powers and making them members of that court any loss on their part or any loss on the part of the public. It does seem to me that to assume the contrary is

to assume that they will lose the incentive in this new court and in this new office to do still in the future the good work which they have learned so well to do in the past, and thus when we have a court in which all original jurisdiction is consolidated with simplified methods of procedure which bring the parties and courts closer together, we will have a system which has in it the elements of flexibility. It does not cut off from the future, by the standards of the present, the opportunity of doing better in the future if our new information, if better education points the way by which we may do it, and so it seems to me that speaking quite broadly and quite largely the scheme which is outlined here in this report is one of finality that is the best that can be devised, and one that has behind it enough of thought to warrant the most careful consideration. I thank you. (Applause.)

CHAIRMAN DEYOUNG. A good part of the proposals before the committee have to do with the judicial system, and the committee will now have an opportunity to hear from the Honorable Nathan William McChesney, formerly president of the Illinois State Bar Association.

Mr. McCHESNEY. Mr. Chairman and gentlemen of the committee:

There has been so much said upon these proposals that it seems almost impossible to take up further time, upon my part at least, and yet I do desire to call attention to certain differences between the three principal proposals which have been considered, as I understand it. It is true that there have been many proposals, but most of them here, I think, concede and involve the desirability of a unification of some kind of the courts of this State, and I think everyone who has given the matter attention will concede that at least in Cook county unification or consolidation is essential if we are to get the best results.

The time has come when the conditions there cannot continue if we are to satisfy anybody who gives the matter any attention.

Perhaps it would be wise for the moment to take up first the question of selection and tenure, because there are certain radical differences between the three proposals, number 56, the Miller proposal, number 188, the Bar Association or Cutting proposal, and the suggestions sent out by the American Judicature Society. The American Judicature Society left out the question of selection and tenure, because they felt there was no experience or especial interest to justify any considerable change in the present system in the manner of selecting judges. All the Supreme Court judges exercise so much power, political power, that the people will insist upon their election, because they are in effect a third chamber with veto power over a great deal of legislation, and further because when the unified court system shall have demonstrated its worth there will be less jealousy of the judiciary.

It seems to me in considering the question of the selection of judges elsewhere we must consider three or four things. I do not personally know the conditions in New Zealand or Australia perhaps as some members of this Constitutional Convention, but I have discovered in discussing with gentlemen from New Zealand and Australia that they do not regard their system as perfect, and I have found generally speaking that the merits of any system increase in proportion to the distance that we are from the place where it operates. So that I take statements with reference to systems elsewhere with considerable caution. Furthermore the books available on the systems in vogue in foreign countries are nearly always written by advocates of the system and we see generally speaking the most favorable side of it. More than that, the traditions of their people are different from ours, and that must be taken into consideration.

I discovered for instance, in France and England, in discussing with the judges and lawyers there, that they do not regard their system as perfect from the standpoint of appointment or operation, as I have been led to suppose before I discussed those matters with them.

It seems to me more significant, so far as this country is concerned, that in the early years of this country every State in the Union had an appointive judiciary, but that the appointive judiciary has dwindled to four or five States, and that no State so far as I am aware that has once adopted

the elective system has gone back to the appointive system, unless I am mistaken about that, and that is very significant.

It used to be considered that the bar of this country would necessarily favor the appointive system. Some five years ago a distinguished lawyer of the New York bar read a paper upon the judiciary before the American Bar Association in which he said it had been his observation among the lawyers of his acquaintance and many of those with whom he was familiar that they, on the whole and all things considered, preferred an elected to an appointed judiciary, and much to the surprise of most people present at that meeting of the American Bar Association that statement evoked almost universal applause.

I believe that there has been no strong sentiment developed anywhere for an appointive judiciary at this time. I believe, of course, if it were possible to make the appointments in a political vacuum it would have great merit, but I see no chance in doing that. It seems to me we have either through an elective system or by appointive system to consider the matter of political appointment and political pressure, if you please. In some of the eastern States the question of judicial appointment, I am reliably informed, are discussed with executives before elected with a view of determining where political support will be given. Certainly that is worse than the system of election where the matter of political support is open and clearly understood. I feel moreover in a matter so important as the reorganization of the court, that the very essential thing of unification and consolidation and increase of efficiency should not be so tangled up with the question of appointment as to endanger the adoption of the consolidation scheme, and that the most to be done is done in the Bar Association proposal, that the legislature at a later date, if it sees fit, may provide for an appointive judiciary, and not settle it by the Constitution itself.

So far as Proposal 56 is concerned, it provides for the selection of the judges of Cook county, if you please, by the Supreme Court with appointment by the Governor. It seems to me that the manner in which that is suggested contains, if I may be permitted to say so, a vicious element which has not so far been discussed. It centers responsibility for appointment of Cook county judges entirely in persons in the selection of whom the people of Cook county have no part. It would be perfectly possible for the six judges of the Supreme Court provided for by this plan, coming from counties other than Cook, to select all the judges, and it seems to me that is a fatal objection to the plan.

Furthermore the plan discusses the question of an appointive State's Attorney who might be relieved by the judges of Cook county for inefficiency or improper conduct. There, too, you might have a State's Attorney appointed for Cook county by a State official in whose selection the people of Cook county would probably have something to say, but who might be removed by judges in whose selection Cook county had nothing to say, and therefore entirely do away with the right of the people to select the men who are to make the appointments. In other words, it seems to me in any event if you are going to provide for an appointive scheme of any kind you must provide that the people for whom the judges are to function must have something to say about the selection of the men who are to make the appointments.

Now, so far as the tenure is concerned: The query came up as to whether or not the twelve years provided for by the Bar Association proposition was not too long. I would like to recall to the minds of some of you a proposal made by Judge Cutting, which it seems to me is the best suggestion that has been made along that line, and that is, that the first election should be for a short term, so that the man himself and the people might find out whether or not the man was fitted for the judicial position, and after having gone through that trial for himself and the community, then select him for a long term. Personally I prefer the retirement scheme, but I think it should be held at a much less period than twelve years; after that the twelve year period would be all right: if the argument is made that a man should not be compelled to drop his practice for so short a term, my answer

would be that no man is compelled to drop his practice to accept a judicial office, and I think that the first term might well be shortened say to two years, so that the period would not be so long if he were not returned, he could go back and pick up his practice.

Mr. MAYER (Cook). If he was a good lawyer he would get his practice back anyway.

Mr. McCHESNEY. Yes, but six years might make a difference. I believe myself that is a better plan to have the initial term so long.

May I not go on to other things in connection with the differences between Proposals 56 and 188?

In the first place the proposal 56 provides for residence at the capitol and the Bar Association proposal does not. It seems to me if you want to enlarge the functions of the Supreme Court and unify the courts and increase their powers and demand from them that advantage and demand from them that which we are entitled, that you must insist upon residence at the capitol. I remember well when this question was up before, it was the feeling of the Bar and the legislature that the Supreme Court should reside here at Springfield, but it was never enforced. However, when you talk about increasing the functions and enlarging their powers and their responsibility, it seems to me that matter should be settled and the court should live here and function here; aside from the efficiency, the increased efficiency, it has a tendency to make the court less local in character, tends to make them a State court rather than an aggregation of local judges which is very desirable in the powers conferred upon them.

Another great difference between the two articles from my point of view is the selection of the chief justice who is to preside in Cook county if you have a unified court There, too, there is a difference in the two proposals. If you are to have any real effectiveness the chief justice must be an independent official, otherwise he will be no more than a mere moderator, he will have no control, and the history of Cook county shows that the position is a farce and does not carry with it any power or the exercise of any real control. Personally I believe in the election of our judges under the conditions as they actually obtain.

The Bar Association and the Miller proposals are different in this respect. The Bar Association provides for an elected judiciary for twelve years, a too long period in the first place, and provides for the appointment of assistant judges, short term men by the Governor, while the Miller proposal provides for outright appointments. In every case it seems to me the appointment should be made by the people, or better yet they should be elected under some such scheme as I referred to suggested by Judge Cutting.

Whether or not the people down state desire a unified court, they can of course best speak. Personally I believe that unification of the courts down state would accomplish as much for them as for us in Cook county. I do believe, however, that there should be outside of Cook county a reduction in the number of circuits, a continuance of the circuit court, one consolidated court, except that it seems to me wise to continue the county court. The county court, county unit, having supervision of the justice of the peace and city judges so as to give people local justice in matters of lesser importance and at the same time greatly assist the circuit court and give circuit courts full jurisdiction over the same questions that the county court has; it does not appeal to me because the business can be done in three months that therefore you should have a court but three months, any more than to say if all the sickness in a county could be treated in three months that therefore there should not be a physician in the county but three months of the year. There should be a court all the time ready to take care of the judicial business when it arises if people are to feel satisfied, and it is important that business should be taken care of, and even more important the people should feel it is taken care of and they are satisfied with the methods by which it is handled.

With reference to Cook county I am confident we should have unification. The municipal court, in spite of the fact that many protested against

the abolition of the justice of the peace at the start, protested against appeal from the municipal court to the Appellate Court rather than to the circuit court and protested because of certain other features has justified itself, and I think it is fair to say that there are a substantial number of judges on the municipal court bench who are substantially more competent to handle important legal business than a percentage of the circuit and Superior Court judges. In other words, there are men upon the Superior and circuit court bench who are distinctly inferior to the best men on the municipal bench, and from that point of view I do not see any reason why, so far as the personnel is concerned, a complete consolidation of all the courts, municipal courts, circuit court, superior court, criminal court, probate and county court in Cook county, certainly so far as the personal element is concerned, the probability of favorable action, there is such merit in carrying on the plan in that way, and certainly also so far as the business methods adopted by the municipal court and not adopted by the circuit and superior court, so I would urge upon you gentlemen in planning for a court for Cook county that it should be a consolidated court in which all courts should all be upon a parity, and that court could then be organized as you please, with a branch in Chicago Heights or elsewhere to take care of matters as might seem wise.

There are certain other differences between these drafts. The Bar Association plan provides for an Appellate Court composed of circuit court judges; the Miller plan as I read it gives power to the circuit court to create an Appellate Division if desired, whereas the plan suggested by the American Judicature Society provides for a unified court of appeal of which the present Supreme Court shall be the Supreme Court division. In this way there would be but one appeal from the circuit to the Supreme Court and the matter handled in the way that seemed most expeditious.

Another suggestion in the American Judicature plan is that for the judicial council, and it seems to me it is an important difference. The Miller plan provides for the making of the rules of the court by the Supreme Court itself, but experience has shown in the past is too busy or not sufficiently interested to carry on the process of rule making with initiative and vigor and it would seem wiser therefore to have selected representatives of the various courts, the metropolitan court of Cook county, the other circuit courts and the presiding justices of the different divisions and the head of the county court form a judicial council charged with the responsibility of formulating rules and enforcing them, and I think better results would be secured in that way.

I wonder if I may recapitulate three or four of the changes which it seems to me are embodied in the scheme suggested to you other than the scheme proposed by the Bar Association of Mr. Miller. (Reading.)

"1. The court of appeal, of which the Supreme Court is the central division monopolizing the prerogative of interpreting the Constitution. This one Appellate Court will have as many working divisions as there are now in the Appellate Court, and can create more when needed to prevent delays by drafting a few circuit court judges for temporary service. The judges of the court of appeal not provided for in the Constitution (those not of the Supreme Court Division) should be selected from the circuit court as is now done.

"2. A circuit court with complete jurisdiction in all civil and criminal cases, including probate cases and those now exclusively tried in county court. This to permit of interchange between circuit and county court judges in emergencies. The circuit court to sit in seven territorial divisions, or circuits, of which one will be known as the metropolitan court of Chicago, which will have a specially developed organization adapted to city needs.

"3. The county court with a judge for each county, and in a few of the more populous counties two or three judges, having the same jurisdiction as at present, with the added duty of supervising the work of justices or other magistrates established to afford speedy trials in remote districts.

"4. These three main divisions to be knit together by an administrative organization, known as the judicial council, which will be composed

of representatives of the various main divisions, and will exercise the rule making and administrative powers."

I submit this plan to you as embodying some of the best features included in the other plans, and with certain distinct advantages, with the question of the method of selection and tenure left open. As an expression of my personal opinion I believe in the interest of having the people of this State satisfied and in the interest of the ultimate adoption of the Constitution that this Convention should not go further at the most than provide that the legislature may in the future, if it desires to do so, arrange for an appointive judiciary. Personally I do not believe that the people of this State would do it, but that is an expression of personal opinion. I am not going to take up your time further in attempting a detailed analysis of the difference between these plans, but if the statements are to be included in your record I would be glad to furnish you a statement of the three schemes in parallel columns for future reference. I thank you. (Applause.)

CHAIRMAN DEYOUNG. We have with us a representative of the Woman's Bar Association of Chicago, and the committee will have the pleasure of hearing from Mrs. Catherine Waugh McCullough.

Mrs. McCULLOUGH. Mr. Chairman, and gentlemen of the Convention: I not only have the honor of being the president of the Woman's Bar Association in Illinois, but I was appointed by Mr. Brown from the State Bar Association on the committee which drafted this scheme which is before you today. I am also interested in this because the woman's clubs of Ilinois and the Chicago Woman's Club has quite a number of representatives in Springfield with various recommendations to make, and we who represent that organization will report back the action you take to them on those recommendations.

We are deeply interested in the very best plan possible for the judiciary. Only a few high lights can be talked upon at this time of night. This whole scheme is certainly in the interest of economy, and economy needs to be the watchword to day as well as in time of war, because unification, centralization of power and simplification always does mean economy. This is a movement in behalf of efficiency, too, because it contemplates having the people that know most about the courts do most about the courts. The idea that the Supreme Court cannot plan for the procedure and practice and general rules for its own kind of organization as well as a legislative body which does not necessarily know anything about judicial procedure is certainly absurd. The Supreme Court, if it should attempt to lay down rules for the legislature upon which the legislature should act, would be doing the identical thing that our legislatures in the past have been doing in regard to the work of the courts. It is a very distinct step in the line of efficiency to have the men who know the most about the work do this specific work.

Several things have been spoken about that interest me very much, and I can sympathize very deeply with the judges of the municipal court who in Chicago by these provisions are to be relegated to the position of assistant judges, and to be appointed. It does seem to those who have been called judge a humiliation to make them an assistant judge, but you know that we masters in chancery are appointed by judges, and yet it is not a humiliation to be known as a master in chancery or assistant judge, and we are appointed. While you are passing enconiums upon all the courts and telling how few cases of corruption exist, I will say there are very few cases of masters in chancery having been corrupt and unwise, and their findings are very highly regarded in the courts of this State. We have tried this assistant judge business, having assistant judges in the line of masters in chancery appointed by the judge, and it might be that even if the municipal court judges were appointed they would be just as valuable as now.

On the question of whether the Governor or circuit court judges should appoint them, there may be a difference of opinion. If the circuit court judges appointed them it would be in line, but if the Governor appointed them it would be an interference by the executive with the judicial department. However, I do not doubt but what this committee can adjust that

satisfactorily and give us a good working plan whereby the municipal court judges can be satisfied.

Very few words of commendation have been said about the lowly justices of the peace, and perhaps should not have. I do not suppose a man here would admit to ever having been a justice of the peace if he ever was, and perhaps I am the only person in the room who was ever elected a justice of the peace. They have ignorant men and wholly unqualified men even in Evanston, and of course no man of any particular ability would accept a position as justice of the peace. I have a good excuse for being one, for the first time I was elected justice of the peace I had a very little baby and I had to stay at home anyhow, so I might as well be justice of the peace and try a few cases occasionally, but I found out from my experience that we had too many of them, and had too little to do; there are four justices of the peace and one police magistrate, and one person could do the work for the five, and probably every other town of 25 or 30,000 people would be in the same condition. We never had but one that I remember that was corrupt, but I do not remember of any other case except my own, where a person admitted to the Bar was elected justice of the peace. This scheme contemplated by our Bar Association Committee provides that the circuit court judges would select as many justices of the peace as would be needed, which would obviate having so many of them and having so little to do, and they would appoint a few who would have plenty to do and then probably we could get a better grade of persons to take those offices which heretofore have not been so highly regarded.

We have heard some appeals to stand by the old things; if you go far enough back you will find that justices were appointed by the King, so if you want a precedent for appointing justices of the peace you can find that, too.

Altogether this scheme recommended by the Chicago Bar Association and State Bar Association and in which the Women's Bar Association is also interested does not contemplate in any way so vital a change as one might judge from some of the attacks made upon it. We still plan to elect circuit and Superior Court judges, and this scheme holds on to the good of the old and then introduces a few new things.

Illinois is noted for never wanting to try anything that is freakish; even if it is a good thing she will let some other sister State try it first, but there is not a single freakish thing recommended in this scheme by the State Bar Association, and we might well try it.

If this committee recommends a good plan to the people of the City of Chicago and State of Illinois I will promise that I will recommend it to the future women voters of the State that they should vote for your work when it comes before the people. I thank you for your atention. (Applause.)

CHAIRMAN DEYOUNG. The committee will now hear from the Honorable Frank P. Sadler, formerly a member of the legislature and former judge of Chicago, who has given considerable thought and study to the question of criminal procedure in Cook county.

Mr. SADLER. Mr. Chairman and delegates of the Convention. I make no apology for standing here. I represent no Bar Association or any particular association in general, but I think in speaking on one phase of this subject I do represent the human interests of about three million people in Cook county. The particular proposals that you have heard about here, even by the Bar Association, you may well know that the particular gentlemen that got them up are practicing civil law. I listened the other day for a whole day in the Council Chamber in the City of Chicago with reference to the administration of criminal justice in Cook county and I did not hear scarcely a word; there was one particular judge who spoke for about one minute; the rest of the gentlemen had nothing to say. Up to the present hour we have had nothing today, and you would think from what has been said here that things were going along merrily in that way. Our civil courts are not functioning as well as we would want them to, but compared with our criminal courts in Cook county there is no comparison here, for I say to you our criminal justice in Cook county is very largely broken down, and if you want a test of that, all you have got to do is to remember

that the Association of Commerce has appointed a vigilance committee; they do not call it a vigilance committee; they call it a crime commission, to watch the administration of criminal justice in Cook county and well they may.

I am not reflecting upon any particular individual, but this is the situation as I understand it from your proposals here, that you are going to continue, so far as the administration of criminal law in Cook county is concerned, the same sort of system we have had heretofore. Under the present system we have a criminal court in Cook county, but it is in name only, for they assign judges of the circuit and superior court to sit in that court, and if they have one that is not at all fitted to preside in the other courts they assign him over in the criminal court. It is a sort of dumping ground. It is true now and then the other judges go over there, but they hate to go over there and they get away just as quick as they can. With what result? That is the very thing you are going to continue. You are going to assign from the circuit court certain judges to sit in the criminal court.

The Chicago Crime Commission have gathered some statistics, and the Association of Commerce is back of them, and I take it that these statistics are correct. This is the record for the last year according to the coroner's inquests. Of course these cases were not tried in the criminal court. There were 2,326 murders in the City of Chicago last year; there was 6,058 burglaries, 2,916 robberies and 4,447 automobiles stolen in the City of Chicago. If you think they are gtting away with it you have only to look in the Chicago Tribune of last Wednesday where it cites one of the particular features of our life there, the Chicago gunman, the notorious Chicago gunman, and yet in these proposals for courts we are giving no consideration, especially to that. But I say to you, if you go along in the streets of the City of Chicago you will find that the average citizen up there is a great deal more concerned in the administration of criminal justice than he is in the administration of civil justice. My friends, burglary insurance is a fair test of the state of mind of the neighborhood and of the commercial state of mind at least. Burglary insurance costs in Chicago $27,50 a thousand, and according to the statistics, which were gathered by the Crime Commission from 187 cities of the United States, San Francisco comes next with $22.50, New York $19.80 and Boston $11.00. I say those things should have the attention and should challenge the attention of a Constitutional body like this.

What are we going to do about it? Are we going to continue just as we have and have these things go on, or change it and center responsibility? I think we have to center responsibility some place, and I think we should have a criminal court or call it a criminal branch of the circuit court with men elected to that branch whose problem is the administration solely of criminal justice, and who cannot get out of it, who will have to solve the problem and have the responsibility of solving the problem. This makeshift plan of turning the judge over to the court and turning him back, you do not get any place with that. There were 3,440 indictments last year by the grand jury. Judge Cook informs me there were 60,000 misdemeanors tried in the municipal court and 100,000 misdemeanors in quasi-criminal cases. Put them in one court and it would keep twenty judges busy in the city. You people who live outside of Chicago may not be concerned in the civil administration in Chicago, but you are in criminal administration there, and I will tell you why; Chicago is a sort of rendezvous for the crooks of the entire United States; they jump in there from every county in the State of Illinois and every state in the Union, but those fellows will not stay in the City of Chicago all the time; when you get your good roads they will visit you fellows in the country. There were 18 bank robberies in Cook county last year. We talk about Mexico, straightening things out in Mexico; the first thing you think of when Mexico is mentioned is that it is a bandit ridden country where life is not safe. We used to talk about Jesse James in Missouri, but Jesse James never equalled 18 bank robberies that I ever heard about; two or three was about all he did, and Chicago can boast of 18, and yet you propose to continue the system that has made that possible.

I say, gentlemen, we have got to have the responsibility there and judges elected to that court; we have got to have a presiding justice of that court, and that has got to be their problem.

We have a World's Congress of Prisons and an American Congress of Prisons and various sorts of reform organizations, and if it is important enough to challenge the world's attention it should be important enough to have a separate court in a great city. I know that the business men of that town and the lowly citizens and the citizens that are high up are immediately concerned in the administration of criminal law, and it has practically broken down.

The crooks are not afraid of Chicago; as one writer has said that if you, for instance, committed murder in Chicago your chances of being tried were three to one; your chances of going to the penitentiary were ten to one, and your chances of being hung were eighty to one.

I did not intend to speak on this subject, but apparently there was nobody left to do it. This should challenge the attention of every man in this Assembly. Since the automobile has come in—do you realize what help it is to the criminal, the automatic and the automobile? The automobile can take him there and the automatic can do the work and the automobile takes him away, and I say that element, that vehicle, is the thing we have to take into consideration with reference to the criminal problems in the future. That is one feature. The enormous delays that are found in the criminal courts demand some attention. You have not the time and you have not the patience for me to read all these things, but I do wish that you would get from Chicago Crime Commission their bulletin of the 20th of December, 1919, and see the continuances that were granted there by the judges of the criminal court in Cook county. They range all the way from eigth to forty continuances, and in the Chicago Tribune of yesterday you will find on the second page an account of a man who was apparently indicted away back in 1911 for some election fraud in Cook county; he was tried and convicted in 1914, his case was affirmed by the Supreme Court of Illinois the same year, and a few months later in the Supreme Court of the United States, and he began his sentence I believe yesteday in Joliet. Gentlemen, can you wonder these days that the criminals do not fear the law, and they don't. We have to have these non-judicial agencies come in to help us enforce our criminal law.

I believe it would be a good thing if we could have a mandate from this Convention with reference to continuances in criminal cases that affect robbery, burglary and murder. I do not believe it hurts anybody that is innocent to be relieved of the charge of murder or the charge of burglary or robbery, and if he is guilty he should be put where he belongs and that mighty quick, but they are not put there, gentlemen, they simply continue along. To be a criminal lawyer in Chicago is almost a reproach, and they depend very largely upon the continuance and dilly-dallying along, and finally the witnesses die and then the case is nolle prossed, and they go.

There is no responsibility except on the State's attorney, and when we do get a good State's attorney he immediately begins to run for Governor or Mayor, and there you are. The place to center responsibility is in the criminal court and have the judges elected to the criminal court; they should be elected to that court, they should sit in that court and that should be their great problem. It is a great problem in itself, it is one that reaches down to your charitable institutions and the penal institutions involving many millions of dollars. I regret to say that over two-thirds of the inmates of the penitentiaries of Illinois who are guilty of such crimes as burglary, robbery and murder are from Cook county, consequently when you are dealing with a court of that kind in Cook county you are dealing with a subject that involves the welfare, prosperity and security of every citizen of Ilinois. I know it would be very hard, it is probably a subject that is for the legislature, you will say, but it strikes me it would do a lot of good if this clause were aded to that concerning the courts, "The Supreme Court shall prescribe rules to secure the speedy prosecution of crimes punishable by life imprisonment and death by granting priority to such cases when necessary and by denying continuances of such cases in the trial courts."

If you just read what is taking place in Cook county in the way of continuances you will see the need of a mandate from a Convention like this to our courts. There is no use to say what they will do in the future, but judge by what they have done as to what they will do. There were seventeen people killed by violence in the first six weeks in 1919 in the City of Chicago, and if there is anything on earth that the State owes to its citizens it is protection of life; there is no use of having property if you are dead, and we are having people killed in the City of Chicago because we have not the proper protection, and this should have the first consideration of this Convention.

Just one thing more and I am done. I tackle these subjects that apparently nobody else will tackle. We have got a lot of judges around here today; of course, lawyers like to please judges and they like to make the judges think they are a little bit different from the rest of humanity, but if any of you people have been in the General Assembly you know that when it comes to a matter affecting their own interest they are just as human as any class of men on earth. I will say this in justification, that is with the power you intend to give the court under this system of giving them all the right to make rules and procedure, you can rest assured that you could no more get anything through the legislature that the courts did not want than you could fly without wings. You are not going to get an up-to-date court system unless you have up-to-date men sitting in there. Let us not have men in their senility and in their dotage. There is a certain percentage of our judges in the courts that ought to be in sanitariums rather than sitting on the bench. There is a gentleman in Cook county, I don't know whether he has gotten back or not, he has been out in California, out there among the flowers, and there is another judge sitting at the present time in Cook county who has been one of the most honored members of our bench, a man who made a splendid reputation and yet I am reliably informed that due to his age he is today doing things on the bench that are destroying the good reputation he has made, because he has reached the age that he can no longer function in the sense of having the mental responsibility that he once had. What are you going to do about it? I think you should have enough courage to meet the situation as they have in the State of New York. I will read you what they do there:

"No person shall hold the office of judge or justice of any court longer than until including the last day of December next after he shall have reached 70 years of age."

I think in almost every department of human government when a man reaches 70 he is about through. Now, then, you can find a man who is vigorous beyond those years, but not often. Judge Ball was one of the few judges I ever knew that voluntarily retired. They are like the United States Senator who was asked why he did not resign, and he said: "Nobody resigns and few die." So far as the proposition applies to the judges of Cook county, Judge Ball when he reached a certain age refused to run, and he said this: "I believe I have made a fair record on the bench, but by reason of my years I am afraid that before my term is over I would not be able to do the work," and consequently he refused to run, but that is very, very seldom. You do not often find such a man as that.

The State of Massachusetts has another way of getting rid of them. For instance, when they find that the judge's ability is being impaired—they hold office there during good behavior—but the Governor can by the consent of the council summon a judge in and after a hearing he can absolutely retire him from office. It strikes me it would be better to have a Constitutional mandate than an experience like that. Connecticut and New Hampshire have the same system as New York, and there are a number of other states that have provisions by which they can compel the retirement of judges. I submit, gentlemen, it is not fair to the people of the State of Ilinois whose cases are being adjudicated to have men sitting on the bench long after they have reached the meridian and when their powers are very greatly impaired, and if you really have the courage of your convictions and want a good court, it can only function through up-to-date judges. You could have a provision

that retires judges at 70 years of age. Under the present laws of Illinois they have a pension system, so there is no reason why a judge should not retire but in the interests of justice he ought to be made to retire.

Gentlemen, these are suggestions to which I respectfully ask your earnest attention. Do not saddle on us the same system we have had all these years, the one that has brought us to the place where the Association of Commerce had had to take up these problems. I thank you for your attention. (Applause.)

CHAIRMAN DEYOUNG. We have with us today a gentleman who has attained great eminence at the Illinois Bar, who was honored by the lawyers of the nation as president of the American Bar Association and has, by the president of his country, been appointed a judge of the next to the highest court in the land. I take pleasure in introducing the Honorable George T. Page, of the Court of Appeals for the Seventh Federal Circuit.

JUDGE PAGE. Mr. Chairman, and gentlemen of the Constitutional Convention:

I deem it a great honor to address you members of the Constitutional Convention, because I feel that to be a member of a Constitutional Convention is one of the highest honors that can be conferred upon a man.

We were warned by one speaker here that it was not wise to try new things. I think the last speaker has convinced everybody here that some new things ought to be tried that some new methods ought to be found, that murder and burglary have been held up and in certain parts of this State have become as regular and constant a business as banking and merchandising, yes and much safer, if you believe the last speaker, than any of the other things.

It was said by the Apostle Paul: "Prove all things, hold fast to those which are good." I think that was directed as an admonition to you gentlemen. It was certainly true to him, to prove all things and hold fast to those which are good for he found in the world in which he lived many things which were bad, and many things which should be rejected, and he resolutely set his face and said he would prove all things that came to him and hold fast those things which were good, and that is what is before this body today, and in all your work gentlemen do not be discouraged because there are differences of opinion here. You will find that difference of opinion which you find among men everywhere. Puddin' head Wilson said to his sister, "It is differences of opinion that makes horse racing possible." It is by listening to the men who came here from the various parts of the State, from Chicago Heights, from Harvey, from Peoria and Chicago, from Carrollton and East St. Louis and Alton, listening to those, that you get the voice of the people and the sentiment of what the people want, and out of all these things you have to find that which is wise and just and build up the system that shall not perpetuate the conditions which the last speaker said obtained now in Chicago, not perpetuate the conditions that obtain in Gary and Chicago Heights, not perpetuate those things about which the people are complaining throughout the State, but that shall secure correct thinking and give a wise and honorable plan for the administration of the courts for the business of the people who cannot agree among themselves, and where their disputes have to be settled and men have to be tried for their crimes and justly punished.

There are only two or three things that you must look to, but you must look to those wisely. In the first place there are too many appeals from one court to another and another and another. It was all right to talk about the Supreme Court being open to every man to walk in with his little case, but it is utterly impossible in a State of six and a half million people with the enormous commercial undertakings and with the enormous business of this State to leave the doors open so a man can walk in with any kind of case. It is impossible. They dispose of from six to seven hundred cases in a year, and I insist gentlemen it is humanly impossible for any Supreme Court, and we have got necessarily to limit those appeals; men, when they go into the circuit court, which is the people's court, have their day in court, and there should be a place not where they can go as a matter of course, but a

place where people can have corrected those things which have been inadvertently or otherwise overlooked, because it is wholly impossible and impracticable in this day and in this generation to have all cases go to the court of last resort no matter how democratic it may sound to say that every man should go into the Supreme Court. It cannot be done. It is the practical things you men have to deal with so people can get speedy justice, and what is it that prevents speedy justice? It is because half the time all the courts are taken up with technicalities, questions of jurisdiction, questions of practice that do not get anybody anywhere. A man would be willing to be beaten in January 1914 upon the facts of his case upon a fair trial, but he would feel very badly if he had to feel he got beaten four or five years later because his lawyers had not found the right place. We should do away with the expense of having so many courts. If we had one court and one jurisdiction in which everybody can go and one body of men to run it, it would be much better.

Now, this question where they say the great departure is, in giving the right to make the rules of practice and procedure to the Supreme Court. That is not so very radical. The best set of rules under which the lawyers of this country practice and under which the laws of the Federal Court are administered are made by the Supreme Court of the United States, and they suggested also the rules in bankruptcy and in admiralty matters, and there has been an effort on the part of serious men in the American Bar Association and among lawyers outside the American Bar Association to have the rules of common law made by the Supreme Court of the United States.

Mr. MAYER (Cook). Such a statute is now pending in Congress.

JUDGE PAGE. Yes. All I mean to say about it was that the lawyers of this country in their national organization have insisted that that very thing should be granted the Supreme Court of the United States, and it is the only line of practice upon which they did fix a rule. What are the rules of practice in the courts? In the court of appeals they are made by the court of appeals and the rules of practice in the nisi prius courts and the district courts in whatever State they are made, we follow the practice in the states, and that is the law.

Now, gentlemen, if you want a watch made you would not go to a blacksmith, and if you want rules of court that will make the court the proper kind of court that would do away with the conditions talked about by the last man on the stand, you should hand over the making to a body of men who know how to make them, and that is the judges of the Supreme Court, and not hand them over to the legislature. They have had a try at it since 1870, and there is no more silly thing to my mind than the present method of instructing jurors in the circuit court, written instruction. Where does it get you? Nothing but error and expense, confusion and perversion of justice, and any man upon the bench will tell you that is true and any lawyer will tell you that is true. The men who make the rules of practice in any State the men who make the rules of procedure in any State, who made an efficient court for the people, are men who understand how to make those rules.

Now, personally, I think that a good many times in the matter of selecting judges you could get better judges by appointing them. I am appointed. (Laughter.) But that is not always the case, if you could always keep the source of appointment high and disinterested, far removed from political influence it would be the very best thing to be done, in my judgment, but this country is supposed to be governed by the people, and whether they are capable or not, or know what is the very best for them is none of our business; if the people of this country are not capable of electing legislators or are not capable of electing or selecting judges they are the ones who must take the consequences. I believe personally it is much better that the judges of the State should be elected and not appointed, and I believe they should be elected for a long time; there is not that shadow of election hanging over them; of course this thing of appointing judges is merely for elasticity. That is one thing, you cannot build a Constitution that has not inherent in it a scheme for each of the three co-ordinate branches, elements

of elasticity that will meet the onward march of progress of this country, meet the requirements of the growth and business and education and literature of the country as a whole. We have got to have this elastic condition so whatever conditions may arise they may be met.

We have a condition in Chicago—is it better to put the place for the correction of that evil where it can be done by the Supreme Court overnight if they want to, or wait for the legislature to meet two years hence? I believe the place to put that thing is where the men who can handle it and so as to make it a practical working proposition.

These are my views, gentlemen; I have praciticed law for a good many years in this State, and I have been on the bench not very long but my experience upon the bench has not made it necessary for me to revise or correct the views which I gained as a practicing lawyer. No two men counsel exactly alike. Here you can get the position of other men, and out of them pick out that which is best, holding fast to that which is good, and build out of the best that you get from all the men that come before you something that gives promise of making a success in that branch which we call the practice and the administration of law. (Applause.)

CHAIRMAN DEYOUNG. Judge David, of the superior court of Cook county, is here and I know has some well defined ideas on the administration of criminal justice, and we will be glad to hear him on that subject or any other subject.

JUDGE DAVID. Mr. Chairman and gentlemen of the Convention:

Some of my thunder was stolen by former Judge Sadler.

What I am to say to you is my own opinion based upon experience of thirty-five years as a practicing lawyer and a resident of Chicago for the past thirty-nine years, as a judge of the superior court for nearly four years. In giving you my opinion as to a few matters concerning the proposed joint Bar Assocition article I do it in spite of the fact that I am a member of the Chicago Bar Association, the State Bar Association and the American Bar Association. In my humble judgment, if you prepare an article which will provide for an appointive judiciary your Constitution will go down in defeat. The voters of the State of Illinois are not and cannot be sufficiently educated to accept an appointed judiciary, and there is no use talking about it. They want to have some voice in the selection of the men who will decide their property rights and the question of their life or property, and they will not accept any Constitution in my opinion which will give anybody, Governor, Supreme Court or anyone else the power to appoint the judges of our trial courts, and assuming that the section which provides for the appointment and election of judges of the Supreme Court, which is simple, and the provision which provides for the election of judges of the circuit court, assuming that this power be given to the legislature, the article presented by the Bar Association would give it in the power of the legislature to appoint these judges themselves. If you will read the proposed article it says that the legislature may provide for some method for the appointment of judges, and non constat, they will reserve that power to themselves, so that it is very evident that the framers of this article were very dubious as to whether the people will accept a provision with reference to the appointment of the judiciary.

I want to speak just one word with reference to the consolidation of the courts in Cook county. That is something I think I am familiar with. I am not talking about any particular court, but I will say to you that the claim that there are any technicaliteis in the administration of justice in the courts of which I happen to be a member is absolutely without foundation; that there is any denial of justice or delay of justice in the superior court of Cook county is a fabrication, pure and simple.

I stated I have been a praciticing lawyer in Cook county for over 30 years; I have presided over the common law branch of the superior court for nearly four years, calling the common law docket, the calendar made up each fall, and today in the superior court of Cook county a man can get a trial on the jury calendar or any other method within eight months from the time the lawsuit is started, and our judges calling the common law cal-

endar now are trying cases every day which were commenced last July and the delay, if there has been any delay in the administration of justice in the superior court of Cook county, is because of the lawyers and not of the judges, and any man can get his case tried in law or chancery today in the superior court of Cook county within from six to eight months from the time the lawsuit is starated, and I defy you to point to the Federal Court or any other court in the State of Illinois, or circuit court where the administration of justice is procured more swiftly, so that the superior court of Cook county is functioning every day and is giving the litigants and the people what they want, and not five per cent of the cases are appealed of all kinds, not five per cent of the cases are taken to the higher courts, and so we are giving the litigants what they want, and if you want consolidation of the courts in Cook county you need only a consolidation perhaps of the superior and circuit courts and I agree with the gentlemen that the county court should remain, and if you attempt to take away from the people of this State the right to have their county judge, having probate jurisdiction and the jurisdiction of a great many other matters they will resent it, and the county judge and the probate judge should remain in Cook county; perhaps you should have more county judges or more probate judges, but there is no necessity of consolidation in Cook county except you want to make one circuit court, and the municipal court should remain as it is. They need it and it should be separate and distinct, it should be a separate and distinct court and I don't care for the opinion of the American Judicature Society or for the idea of electing a chief justice. The courts of Cook county are functioning, perhaps with one exception.

I agree with Judge Sadler, because it has been a fetich of mine for more than twenty years, that there should be a criminal court of Cook county, and judges elected to that court. The Constitution of 1870 created that court from the recorder's court and it has failed in my opinion in the past few years for a number of reasons. It is true that a great many of the judges do not wish to go over there of the circuit and superior courts, but you will find many able and distinguished members of the bar in Cook county who would be willing to accept the position of a judge of the criminal court of Cook county and will become independent and will become experts in the administration of criminal law which they are not today, because the judges of our courts do not. It has been distasteful to them, and I will tell you why; there has been a feeling in Cook county that the criminal court of Cook county is more or less dominated or run by the State's attorney and not by the judges; that the judges do not run the court, but that the State's attorney does. That may be without justification, but the judges do not like to be criticised constantly by the prosecuting officer. They do not wish, when the prosecuting officer loses some particular lawsuit or something happens, to be critised in the public press, and so some of them resent going over there because they do not want to get into a controversy with the State's Attorney. But it is not rue, as stated by Judge Sadler, that it is dumping ground; that is absolutely without foundation. Every one of the judges of the circuit and superior courts go there without exception, is bound to sit in the criminal court, every one of them. It is true that some of them profess at times a preference, but if you will go back to the last four years you will find that nearly every judge of the superior and circuit court has presided as judge of the criminal court, and it is not a dumping ground, and I want to resent that statement. They do not care to sit there any longer than they have to, which is one year, and they do not become experts in the administration of criminal law, and it is true that there is a great deal of crime in Chicago and it is also true that the cases are not tried as they shoulde be tried, because unfortunately some of the judges do not run the court with the firmness and the determination to be the judge of the court, and they are not experts—some of them do not care to become experts in the criminal law—and so Chicago, which has the largest court of criminal jurisdiction with more cases probably tried than any court in the United States outside perhaps of the courts of New York, should have a court composed of judges of the criminal court, not less than six in number,

with the power of the legislature to increase it if it becomes necessary to do the criminal business of Cook county, and when you get that kind of court, let the municipal court have its jurisdiction as it has. It is getting along all right. But when you have that kind of court you will find that crime will decrease in porportion to the ability of the judges insisting that the cases be disposed of in the order in which they appear upon the docket without regard to what is defended and who is being prosecuted, unless some emergency arises, and when they comply with the plain provision of the law you will find, whether a man is on bail or whether he is in jail, that you can clear the criminal court at any time, clear up the docket and keep the jail clear whenever you have six men conversant with criminal law, experts in its administration and running the court as it should be run, and not permitting anyone else, State's attorney, clerk or sheriff or anybody else, to run the court, and I submit this to you gentlemen, based upon experience as a practicing lawyer, having tried a great many criminal cases, both the prosecuting and defending, and having presided as a judge in the criminal court of Cook county.

Mr. MILLER (Cook). Is the one judge who has sat over there continuously, has he done better than the other judges?

JUDGE DAVID. I prefer not to answer that; he does not come from our court; if you wish to ask any questions about any judges sent from our courts, they are sent by the executive committee, an executive committee of the Superior and circuit court. They have ample power and can send a man to any branch, and they are doing it right along. I am betraying no secret when I say that it has become distasteful to some of the judges to go there, by reason of the controversy with the prosecuting officer, but there has been no shirking of responsibility.

In the days when I first practiced law the two men who sat in the criminal court of Cook county, Judges Tuley and Derry, sat there alternately, and tried the most important cases, and they felt it was their duty. Although Judge Tuley was a chancellor, he knew the criminal law, and considered that it was his duty to know it. In those days two judges could do all the business of the criminal court of Cook county. They had two assistant state's attorneys—I do not know how many they have now—and you could get a trial in about a month, and I can assure you that you should establish a criminal court of Cook county; and not as you propose in your bill, or as is proposed by the Bar Association bill, to keep up the same system by which you are going to select the men—the judges themselves. What right has the judge to tell me that I should go to the criminal court? If you want to provide for such a condition then elect these men, as has been suggested to me; as a judge of the consolidated court he should run for office as a chancellor or as a judge of the criminal court or as a judge of the common law division, or probate division. Let the people know what branch he is going to run for and not leave it in the power of some autocrat that you may call a chief justice.

The judges of the superior and circuit courts do not wish to preside in police courts, and they ought not to be required to. The judges of the municipal court in performance of their duties in Chicago are selected from their number to hold police court and to try other cases and we are getting along all right, and we need no consolidation of all courts in one court and make anybody an assistant to anybody else. (Applause.)

CHAIRMAN DEYOUNG. The Lawyers Association of Illinois has been interested and is interested in the proposals before this Convention, and the president of that body is here, and I take pleasure in introducing Mr. Justice Chancellor, the president of the Lawyers' Association of Illinois.

Mr. CHANCELLOR. Mr. Chairman, members of the Convention: A little over a week ago the lawyers of Chicago, considering some of these questions that are coming before you and thinking that it might be a good thing to get the voice of the lawyers on some of these questions, they submitted three questions on a postal card and asked the lawyers to vote on these subjects, and I was made chairman of that committee, and the votes were being returned to my office. Between five and six thousand postal cards

had been sent out with these questionnaires, and I think up to date between 23 and 2400 have responded, and I have here the result of that vote and I thought you might like to have it. It might aid you in some way in getting at the opinion of the lawyers of Chicago as to what should be done with these three propositions. I will read the first one and then the vote:

"Do you favor a single unified court for Cook County embracing all the courts of record now held in the county, the same to be divided into chancery, law and criminal branches with judges having concurrent jurisdictions."

On that vote the ayes had 1842 votes up to last night and the noes 379. The second question was:

"Do you favor an elected or appointed judiciary?"

They responded to that 1,257 in favor of the elected judiciary, and 1,075 in favor of the appointed. The third question was:

"Do you favor common law procedure or a system of simplified pro cedure?"

The answer was 721 in favor of the common law and 1,558 in favor of the simplified.

With reference to the proposed measures before the Convention, it occurs to me that there are some dangerous things in it, it seems to me so anyway. The Supreme Court has about all it can do at the present time to fix the law of this state, and that is and should be its business. If we turn it into a ministerial body to make appointments, to select the judges and assistants to it, it necessarily must be open to the applicants who wish to occupy those positions and if it is open to petitions from one source or another, one body or another, wishing the Supreme Court to consider its rights and to have a judge appointed to look after its affairs, they will have no time to decide what the law is or to pass on questions, for their entire time will be taken up by listening to a lawyer of the Janitors' Union or some other union or some other body who wishes to be appointed as an assistant to the court or some court.

Another thing, the sovereign right is in the people. They have the right to run their own business in their own way. If I have a business, I might hire a number of good men to assist me in running my business, but if I turn the business over to them it is no longer my business unless I retain the direction of that business and tell the others how I want the business run or I want my assistants to run it. It is not my business, it becomes their business. And the minute that the people of the State of Illinois turn over to the Supreme Court of this State that business to run their business, to make rules as to how they shall conduct their business, tell them what their business is, tell them how, why or in what manner they can have it tried, they might as well go out of business. They won't be in business very long, because a body of that kind works for itself and along the lines of its work.

Now, then, there is another provision in here; that as soon as these gentlemen of the Supreme Court have appointed this vast number of assistants all over the country with the power they have got in the various districts throughout the state we build a political machine; they can go to the legislature and have the legislature make an appointment and put themselves in for life. Do we want anything of that kind? Do you want to go to the people with anything of that kind from this Convention? I do not believe the people will vote to any one body all their rights and give to them the power to do with them as they see fit. Another thing, the court that can make rules and unmake them—a rule can fit one person and does not fit another. What is the Constitution for? The majority can start out and run pell mell along and nobody can stop it. They do not pay any attention to rules, they don't care anything about it. What is the Constitution for? It is for the poor, helpless individual, the minority, and it is the duty of the Supreme Court to administer that Constitution, it is their duty to see that the great majoriy and the legislature do not pass something in an excited moment or under heat of passion that destroys this right guaranteed to the minority. That is what your Constitution should be, and

when you come to the judiciary part of it you should make it with due regard to those rights and the administration of those rights. I thank you. (Applause.)

CHAIRMAN DEYOUNG. The Committee regrets that lack of time prevents the appearance of other speakers, and it is obliged to all of those who have laid aside their work today to come here and make the contributions that they did. I am sure that I voice the sentiments of the committee when I express appreciation to those who have appeared here today and for what they have done.

(The President presiding.)

Mr. DEYOUNG (Cook). The Committee of the Whole in session today in consideration of proposals concerning the judicial system desires to report progress and asks leave to sit again.

(Report adopted.)

Mr. MILLER (Cook). I move that we adjourn

(Motion carried.)

Whereupon an adjournment was taken to Wednesday, March 24, A. D. 1920, at ten o'clock a. m.

WEDNESDAY, MARCH 24, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Tuesday, March 19, 1920, was placed on the desks of the delegates on yesterday; the Journal of that date is now subject to correction. There being no corrections proposed the Journal of March 19, 1920 will stand approved, and it is so ordered.

Whereupon, the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following matters for consideration in the Committee of the Whole on Thursday, April 1, 1920.

The consideration of the various proposals before the Committee on Municipal Government.

(Report adopted.)

THE PRESIDENT. The Committee on Rules and Procedure submits a further report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure to which was referred the motion of the delegate from Cook, Mr. Cutting, that a committee be appointed by the President to supervise the printing and correcting of the Convention debates, having duly considered said motion, recommends that a committee of three to supervise the printing and correcting of the Convention debates be appointed by the President, to aid and assist in that work.

(Report adopted.)

THE PRESIDENT. Pursuant to the resolution adopted, the Chair will appoint as chairman of the committee Delegate Clarke and as other members of the Committee Delegates Dryer and Brandon.

Whereupon, the Convention further proceeded upon the order of first reading of proposals, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. On yesterday an invitation was extended to the Honorable William Jennings Bryan to address the Convention this morning. Mr. Bryan is on his way to the hall and will arrive in a few moments. The Convention will be at ease for a few moments until the arrival of Mr. Bryan.

(Convention thereupon was at ease.)

THE PRESIDENT. Gentlemen of the Convention: We have with us today a distinguished visitor; a man of wide experience in state and national affairs; a man of honest convictions and high moral ideas. I take pleasure in presenting to this Convention the Honorable William Jennings Bryan who will now address us. (Long applause.)

Mr. BRYAN. Mr. Chairman, members of the Constitutional Convention of Illinois, and ladies and gentlemen:

I esteem it a great privilege to address this body, and therefore I very highly appreciate the invitation that was extended to me; an invitation from any Constitutional Convention would be a very great compliment, because the intelligence and virtue and patriotism of a commonwealth finds its highest expression in those selected to write the organic law of the state. More con-

fidence is reposed in them than in those who afterwards fill the offices that the Constitution creates and the powers of which the Constitution prescribes the limits; so that any Constitutional Convention is a body well worth addressing, and anyone may feel that it is an unusual opportunity if he is permitted to speak to them on the subject which they have under consideration, but in the case of this Convention there is another reason why I am deeply touched by the honor that you do me. My father was a member of the Constitutional Convention that wrote the present Constitution of Illinois, and I have always looked back to it as the highest honor that was conferred upon him; and I feel about the Capital of this great State as I never can feel about the Capital of any other state, for this was not only the State in which I was born, but the State in which the early years of my life were spent, and it was here at Springfield that I first fixed in my mind the estimate of what a capital is, and this building, which was the first State Capitol Building I ever saw has been a sort of pattern by which I have measured every other building, as they have fallen below, or surpassed it in their splendor; and so today I am very glad to come before you and to speak to you, for I really feel more at home in speaking to such a body than I would before a court, or before a legislature, for while my profession was the law, while I was reared with the idea I would practice it, and educated for it, and began in it, I drifted away to other things, and while I have drifted into a work that I think enables me to sympathize very fully with what you are doing; if I had practiced law I would have been dealing with the law as it is, but instead of that I have been dealing with the law as I thought it ought to be, and whenever I have found anything that I thought the people needed, the question was not whether the Constitution permitted the thing, but how the Constitution could be changed so as to permit anything that the people want, and so today I want to follow the line that I followed about two months ago when I spoke to a Constitutional Convention in Nebraska. I have such an attachment for my State of Nebraska, and such an interest in their work that I spoke to them with the idea of helping them to make the best Constitution in the world, and I told them they ought to make it the best Constitution in the world because they had all the past to guide them, and they had the highest possible purpose to inspire them to draw from the past the lessons that it teaches, and there is no other state that I would put in the same class with Nebraska, for whose Constitution I would feel so great a concern, for these two states, the one of my birth and the one of my adoption have claims upon my heart that no other states can ever have. Let me therefore, lay before you what seem to me to be the guiding principles in the writing of a Constitution; and I need not say that I have no thought of anything of mine being accepted merely because I say it. I am conscious of the fact that truth does not depend for its value upon the reputation or the name of the one who utters it. Truth has merit of its own. We borrow strength from truth, we do not give much strength to it, and therefore what I say to you is presented with the belief that you will consider it, weigh it, use it, if you find that it commends itself to you, without the slightest hope that you will give it any additional weight because it happens to come from me, and although this body is made up, I understand, of people who do not belong to the political party with which I affiliate, I hope that the truth will not be discredited, if it is the truth, by the fact that it comes from me. (Laughter.)

When I was a young man and first entered politics I had an idea that about all good was to be found in my party, and all the evil of the country could be found in the opposite party, but I am older now, and as I advance in years I found some bad Democrats and some good Republicans, (Laughter), and I had to revise my estimate, and I found something that I think is worth notice, and that is, our differences are largely superficial differences, and that our agreements are fundamental agreements. In politics we emphasize our differences but outside of politics we emphasize the things that bind us together. To illustrate what I mean: If this year for instance the two parties write platforms with ten planks in each platform and nine of them are identical and only one expresses a difference, the campaign will be fought on the one plank and not on the nine. That is what happens in

politics, and our parties thresh out the differences between them and they do not spend much time upon the agreements, but when we come to the fundamental things we find, that we are alike in purpose, and I might here in the home of Abraham Lincoln emphasize this point by a quotation from one of his speeches; he said that he did have a political principle that he did not get from Thomas Jefferson. Thomas Jefferson was the founder of the Democratic party and Lincoln, looked back to as the founder of the Republican party, and yet the founder of the Republican party declared he had no political principle that he did not get from the founder of the Democratic party.

When we get down to bed rock principles we stand together, and I am speaking to you on fundamental principles, today, and I believe we will find ourselves in agreement in the great purposes that bring you here, however, we may differ in the application of those purposes to your organic law.

If you will pardon me, that I may be sure to take up the subject in a way that I think is logical and therefore most persuasive, let me use the headlines of my speech in Nebraska, without confining myself to the text of the speech.

In the first place, let me call your attention to the difference between the two kinds of government, not the two theories of government, but the two kinds, coercive government and cooperative government. The philosophical anarchists believe that the time will come when no government will be necessary, basing the belief on the theory that in the course of time each one will become a law unto himself. If we admit that, with the progress of civilization the coercive part of government decreases so that the need of the law becomes less and less important, the individual setting up his own moral standards and in obedience to them respecting the rights of others, admitting that, still it seems to me that the idea of the philosophical anarchists rests upon a fundamental error in that the cooperative part of Government increases with civilization, so that in proportion as the coercive part become important the cooperative part of Government will become more important, and the people acting together will do more and more the things that were formerly done by individuals, so that government is a continuing necessity and will never be less important than it is today, although the emphasis will, as time goes on, be placed I believe upon the cooperative features of government rather than upon its coercive power.

I shall not dwell very long on the fundamental principles because I want to proceed to the application, but I cannot proceed without calling your attention to what I regard as the basic principle of popular government. I need not compare the different theories of government, or forms of government further than to say the arguments made in the past in favor of the monarchial form and the aristoractic form have daily decreased while the world turns more and more to the democratic form of government, and I shall only speak therefore, of that which is fundamental in the democratic idea of government. There is always some principle that dominates a cause. In court the lawyer is looking for the legal principle that dominates the case, and so in the discussion of all questions we are looking for the controlling principle, and we never make much progress in the discussion of any question until we take hold of the principle that does control. When I was a young man I heard over at Jacksonvile a sermon in which the preacher used an illustration that has come to my mind a great many times. He said, "if you want to take a little tree through the gate, it all depends on how you went at it." He said, "if you take the trunk of the tree through first the limbs would be borne in against the trunk and you can get through easily, but if you take hold of one of the limbs and attempt to drag the tree through that way, the other limbs would catch against the gate post and you would make no progress." It is a simple homely illustration, but a very convincing one. It is only when we take hold of the trunk of the tree that we can carry it through the opening; it is only when we take hold of the fundamental controlling principle and understand that that we can understand the details of a question, and so I ask you to consider what I regard as the fundamental principle of popular government, and that is the

right of the people to have what they want in government. That does not mean that the people will make no mistakes. It simply means that the people have a right to make their own mistakes and no few people have a God given right to make them for the rest of the people. Mistakes will be made in any form of government. The only question is to whom shall we give the privilege of making the mistakes. In a monarchial form of government the King makes the mistakes for all the people, and history shows that the Kings of the world have lived fully up to their opportunities in the making of mistakes. In the aristocratic form of government a few make the mistakes for the rest, and many of the bloodiest wars of history have been waged by the people to correct the mistakes that the few found it profitable to make.

In a government of the people and by the people the mistakes are made by the people, but because it never pays the people to make mistakes they are not as apt to make them as those who find it profitable, and because the people cannot make a mistake without suffering for it they correct it as soon as they find it out. The power to decide must be lodged somewhere. If it is not lodged with the majority, it is lodged with the minority, and to my mind it is entirely antagonistic to the whole theory of popular government to put the presumption of right on the side of the minority. The moment you depart from the fundamental democratic doctrine that the people have the right to have what they want in government you start back toward arbitrary power, and there is no logical stopping place. If less than half the people have the presumption of right on their side, then if you will divide the minority into two groups the presumption will be on the side of the smallest group into which the minority is divided, and so you proceed until you get back to the fallacy upon which the monarch is built.

If I can therefore burn into your minds and write upon your hearts what I regard as the fundamental principle of popular government, the right of the people to have what they want, I will have given you a principle that enables you to decide right on every proposition with which you have to deal, for you will find that there will be scarcely a part of this Constitution that will not involve your faith in the people, and if you find that faith in the people, if you don't trust the people then this Constitution will not be a people's Constitution. A Constitution does not limit the power of the people. A Constitution is written by the people themselves, for you must submit your work to the people, and this Constitution will never be the Constitution of Illinois unless the people themselves declare it to be their will, and the very fact you must submit it to them is not only a confession by you, but an avowal by you that you regard them as the source of power, that you are merely the representatives to put into form what they want put into form.

If a Constitution puts limitation upon the legislative power, if only they make sure that those who speak for them are speaking as the people want them to speak, and if you put a limitation upon the right of the people to change the Constitution it is simply the people in their sober moments protecting themselves from the mistakes that might occur if they acted under sudden impulse, but remember this, that your Constitution is not a denial of the principles of popular government; that is not a destruction of the people's will, that is not a limitation upon the people's will. Your Constitution will merely set forth the means through which the people's will will find expression, and if I succeed in making clear this fundamental principle I can proceed to those of less importance, but if I have failed to impress upon you that which to my mind seems fundamental, I cannot hope to find you in agreement with what I shall say hereafter, for every word I shall utter and every proposition I shall submit will as near as I can make it so, harmonize with the fundamental principles laid down. I have no idea of government that does not rest substantially and squarely on the right of the people to have what they want, for when you are arranging the machinery of government you cannot arrange it with the view to securing that which you may think to be the right thing, and you cannot weigh a method of government if you look at it through your desire to accomplish some

particular thing. I found for instance, here as I found elsewhere that men's views on the so-called initiative and referendum depended in some cases upon what they thought would be done. That is not new. I discovered this as soon as I began to discuss questions of government. I have found always the difficulty of getting people to consider questions in the abstract, to consider theories independent of the immediate application, and the illustration I have used is this: That I am never in favor of a king no matter how good the king is. I judge a monarchy as a form of government entirely independent of who may be king at the time, or how good a man he may be, and so I decide upon popular government not because I think it may be wise and bring that which I desire, but because the people have a right to have what they want whether they want what I want or not, and I so firmly believe in it that I would rather live under a free government and be in the minority all the time than live under any other form of government and be with those controlling that government all the time. (Applause.)

May I then speak for a moment upon the coercive part of government before I take up the question of cooperative government. There are not many things I want to say on this subject, but there are two or three things. In the first place, when we deal with the coercive side of government we deal with society's prodigal son; we deal with the one who has wandered away, for no matter what the form of the crime may be, or what its degree may be, the one who commits a crime has wandered away from that family in which there must be no crime, for in the family we are supposed to be bound together by love that makes us consider the rights of others.

What is society's duty to the prodigal son? There are two purposes we have in punishment. One is the prevention of crime afterwards and thus the protection of society, and the other is the reformation of the criminal, and when we get down to the fundamental proposition, they are really very near one, for the best way to protect society is to reform the man, and society is far safer with a reformed man at large than with an unreformed man under restraint. We must therefore consider the welfare of the individual. I have not had any direct connection with the great movements that have been concerned with reform in our penal laws and practices, but I have reached three conclusions; in the first place I think we ought to keep the first offender away from old offenders. I think it is a great injustice to a man who has yielded to temptation for the first time, to throw him into the society of hardened criminals; that we owe it to him and we owe it to society to give him a chance; we owe it to him because a crime is sometimes the result of environment; we cannot expect a man or a boy reared in an unhealthy and unwholesome environment to have the strength to resist temptation that one has who has been reared in a better environment, and we must take into consideration the fact that his fall may be due to lack of light, and the purpose of the State should be to furnish him an environment that will turn his thoughts to a better way, and in this connection I beg to give expression to a thought that has grown in my mind now for about twenty years. During my brief service in the army I was brought to realize not only the importance of religious consolation and comfort but I was brought to understand the differences between the different churches, and ever since that army experience I have believed that when this government calls a soldier from his home and puts him where his life must be constantly risked the least it could do for him would be to surround him and supply him with the spiritual consolation that he most desired and that most ministered to his comfort and to his ease, and so I believe in regard to the penitentiary; where people are brought together in any considerable number I believe they ought to be supplied with the spiritual advice and the spiritual consolation that they need. We have three great branches in our religion, the Protestant, the Catholic and the Jewish, and then we have other groups that are smaller as well. I think it is only fair to a person in prison for violation of law, that regarding his reformation and his moral improvement as to the highest importance to society, we ought to see to it that every one of these men

under restraint should have that spiritual advice and counsel in religion that he will receive most sympathetically, and I think the State can well afford to provide such assistance to the man at the expense of the State in order that the chances of reformation may be at the maximum, and the third thing that has been impressed upon my mind in connection with prison reform is that after the man has paid his debt to the State, after he has fulfilled the requirements of the law, after he has suffered the penalty fixed by law for his transgression we should make it as easy as possible for that man to regain in the world the place that he lost, and I have been lead to believe that a very difficult question confronts the man who comes out of the penitentiary, and that is of establishing his reformation, and I venture to suggest unless you have some other way that you might consider, this way of providing some place where that man can work voluntarily and without restraint until he has convinced the world that he is a reformed man and can be trusted.

Unless I greatly mistake the sentiment among the people and the sympathy that is well-nigh universal in the hearts of the people, they will be glad to help any man back to his old position of respect if they are but assured that he will not take advantage of confidence placed in him, and if he has some place where he can live and work and not be afraid to go and can stay until he has compelled respect, I believe it would be a benefit to him, and encouragement to him and a benefit to society.

I have only one other thought on this subject and I have left it for the last because it is the most important, and that is, as far as you can provide you ought to provide for equality in the distribution of punishment. I know of nothing that is more calculated to make one rebellious against society than to find inequality in the meting out of punishment. I had my attention drawn to this a good many years ago. In Nebraska we had a bank failure and the bank official who was responsible for a defalcation of about five hundred thousand dollars was sent to the penitentiary for five years; about the same time a cab driver robbed a passenger of forty-six dollars and was sent to the penitentiary for seven years. I don't know what you may think about it, but I think that there is nothing that society should set its face against more than the fixing of heavy penalties for the commission of small offenses and small penalties for the commission of great crimes against society, and if those two men differed at all, the man who had the confidence of the people to the extent of having their money so that he could embezzle five hundred thousand dollars, he better understood what crime was, and therefore, his guilt was greater than the guilt of the man who stole but a few dollars.

I was in Congress at that time and I thought I would address myself to the subject, so I introduced a bill in Congress grading the punishment of embezzlement so that the minimun punishment which is generally given to an official who steals a large amount might be raised so that he could not be given so small a punishment for a greater offense, and so I proposed that if the embezzlement amounted to a certain sum the minimum would be larger, and if it was a still larger sum the minimum would still be raised and I think I made about four grades, but I did not find it was popular with those who were writing laws on that subject, but the fact I did not find it popular there did not discourage me; I am addressing a different class of people than those I addressed in Congress. (Laughter.) I found my banking bill had to go before a bank committee, and I don't know why the bankers on that committee were not willing to fix a penalty; it may have been that they were afraid of some of their officials under them might become guilty, of course not themselves. But, my friends, this is a matter on my heart and I believe that you who come here to make this a great Constitution, who come to make it meet the sentiments of your people, to follow the ideal of the great people of Illinois may well exert yourselves to the uttermost to provide in your Constitution as far as you can against inequality in the punshiment of people guilty of crime.

Now, let us pass on to cooperative government; you will have to deal with that, and let me ask you not to be frightened by the terms that are

used on the epithets that are employed, for when any man starts out to do any reforming he has to make up his mind to be indifferent to epithets, for the epithet is the argument that is first employed against him, and the better the thing that he proposes if it is real reform, the severe—the epithet that will be employed against him by those who do not want to be reformed.

The word socialism is the word that is now employed against any form of government ownership; that say it is socialistic. Let me say I am not in favor of the socialistic ideas, as I understand it. If I understand the basis of socialism it is that competition is an evil and that it ought to be eliminated. I do not believe that. I believe that competition is a good, that competition is a necessary force in society, and that competition should be protected. That does not mean that you will put no restrictions on competition. Restriction is entirely consistent, we believe, in the importance of the principle restricted. If I may make myself understood by an illustration; the air is necessary to human life, and yet in the form of cyclone or hurricane the air becomes the most destructive force we know; water is necessary to human life and yet one can drown in it, and so fire is necessary to human life and yet fire beyond control becomes a conflagration, so it is entirely proper to believe in competition and yet believe in restricting competition where the parties are not upon a fairly equal plane, and thus able to contract with freedom. We recognize that. We have a usury law and we say that the borrower is servant unto the lender and therefore the lender shall not be permitted to impose such terms as he pleases. We do not destroy interest but we limit the amount of interest that can be taken, and so when you come to fix the hours of labor and the conditions under which people will exist it is not an intereference with the freedom of contract to say that the employers shall not himself employ people over a certain number of hours; it is simply saying that humanity will step in and protect people who cannot protect themselves. It is just as true today that those who work for a great corporation are impotent to protect themselves by contract as it is to say that the man who borrows money cannot protect himself by contract and their force must be protected by restraining legislation. But, my friends, having dissented from the socialistic idea that competition is an evil I want to remind you that all government is in a proper sense of the word socialistic. Our system of justice is socialistic because the people acting together do what each individual would have to do for himself if we did not have our courts. If you go into the remote sections of the mountains where the feud prevails you can understand what would be universal if we had no system of justice, but it is socialistic, because the people by taxing themselves created this thing, and the people acting together protect themselves, and so with our school system, it is socialistic; we tax all the people and with the money we raise we build school houses and employ teachers, and we do that without which we would have the individual school or the school by voluntary cooperation.

I suppose our postoffice system is as good an illustration as can be given of the people acting together. It is not necessary that we shall have a postoffice system, we might let the individuals carry the mail, but the individual would not carry the mail at the cost it is now carried, and no private corporation would carry the mail at the price that it is now carried, and there is not the slightest idea in anybody's mind that our Nation will ever go back to the individual carrying of the mail, and yet it is a socialistic thing. It is the people getting together and doing together that which they can do together better than it could be done by each one separately.

In the cities we have the question up as to whether the city shall own its waterworks. If we went back to a hundred years ago I would have a different sentiment to address from what I have today. One hundred years ago I think sixteen cities out of seventeen had privately owned waterplants. Today, if I am correctly informed more than sixteen out of seventeen cities own their own water works. There has been an irrestible trend from private ownership to public ownership, and I speak of these tendencies that I may impress this upon you; I believe that your Constitution should be so made as to authorize your State and your counties and your cities to extend govern-

ment ownership in any direction that the people want and at any time that the people want it. That you can trust the people themselves to decide the question, and that unless you do that you attempt to restain living generations by generations past.

Jefferson understood, as I think no other person in early history understood, the value of popular government, and trusted people as no man before him trusted them; he argued in favor of a change in the Constitution at least in a generation in order that the organic law might be in harmony with the desires of those then living. I have had occasion to discuss this question recently when we were dealing with the Constitution written one hundred and thirty years ago and when it has been suggested that our Federal Constitution could not be amended in a certain way; my answer has been that if we are not permitted to amend that Constitution as we want it to be that the dead rule the living, and to be ruled by the dead is more tyranical than to be ruled by a monarchy and aristocracy. You can appeal to a living monarch or to persons of the living aristocracy but the ears of the dead are closed and you can make no appeal to them, and so I think, my friends, that you should put into this Constitution a provision that will enable the State of Illinois and the counties of Illinois and the cities of Illinois to enter upon government ownership and operation of anything that the people desire to own and operate. If the city wants to own its water works, why should not the city own its water works? If it wants to own its lighting plant, why shouldn't it? If it wants to own its street car lines, why shouldn't it? If it wants to own its telephone system, why not? If your Sate wants to own railroads, why not? Who shall say that the people cannot decide what they themselves desire? And who living today has such confidence in his wisdom as to take from the people of tomorrow the right to make their government suit their needs, that democratic government of all the people, by the people, and for the people, unless you give opportunity for development, unless you put the power in the hands of the people only providing against the misuse of it and providing against the things that might be done without sufficient thought and consideration; what further reason can you have for taking from the people the right to have what they want and to do what they want, and passing on any other question? Will you have greater difficulty than on this? Why? Because here above every where else you have more concentrative power of capital against the people themselves, and it is only where there is great concentrated capital on one side that you have any difficulty in addressing the people.

May I lay down two or three propositions I regard as fundamental in the consideration of this question? The first is the private monoply is indefensible and intolerable; indefensible because you cannot defend it and intolerable because the thing that you cannot defend cannot long be tolerated where the people are the source of power who can make their government what they want it to be. The next proposition is that whereever competition is impossible and therefore monoply necessary it must be a government monoply, owned and controlled by the people in their own interest and not a private monoply owned and controlled by a few in their interest. My friends this is so important and today it is so acute a question I venture to dwell upon it just a moment. I am convinced that the principle that underlies the private monoply is an indefensible principle. We have good judges in this country and yet there is not any judge who is allowed to decide his own case, and I know of no place in the civilized world where a judge is permitted to decide a case in which he has an interest, and we are so anxious to avoid the effect of interest on the result of a suit that we will not allow a man to be one of twelve in the jury if he has any pecuniary interest in the result of the trial; there is nothing better understood than natural unconscious bias of a man in favor of himself. Now, if that be a righteous principle and if we cannot trust a judge selected because of our confidence in him and selected because of his probity, if we cannot trust a judge to judge his own case how shall we defend a private monoply where some man not selected by the people but selected by the stockholders of a corporation organized for no other purpose than to make money, how can we trust that man to act as

judge and jury and decide every day questions where his interest is on one side and the people's interest on the other side? I cannot conceive of any man supporting the principle of private monopoly unless he has so much stock in the monopoly that his interest in the dividends suppresses his conscience on the subject. I know of no more important question that you will have to decide, and therefore I go a step farther and I say to you there are two great political objections to private monopoly, and even if you could convince me, and there is no proof to convince any fair minded man, but if there were to convince me that a private monopoly is an economic advantage, there are two disadvantages, two political objections that would outweigh any economic advantage we could get; one is the effect of the monopoly on the man who is in it and the other is the effect on those who are the victims of it and both are worthy of consideration. The man who is interested in a private monopoly, the man who profits by a private monopoly, the man who uses the powers of a private monopoly to gather from the people what he could not gather without the monopoly, the man who becomes conscious of his own wrong doing, and when he becomes conscious he is dealing unjustly with the people he is afraid of the people, and when you allow a private monopoly to be built up in this country you create a group of men who distrust the people because they are afraid to let the people protect themselves from the greed of the monopoly. That is one objection that is political in its character. The other is the objection based on the effect of the injustice upon a large number of people. Just in proportion as the monopoly is profitable to a few people it is injurious to a multitude of people, and when the people who suffer are convinced that they cannot get justice, when the people who suffer see the men in control of monoplies able to control governments and to dictate legislation or to suppress remedial measures, while their cries bring back no answer but the echo of the cry, you have people in whose hearts the seed of anarchy can be sown, and one reason why I believe in the initiative and referendum is because I want to bring the government so close to the people and put it so completely in the hands of the people that the people themselves can correct every abuse, and just in proportion as we make this a peoples' government and give them absolute control over it we strengthen ourselves to deal with those who speak out against our form of government, and my remedy for any threat of rebellion is to make this a people's government which they absolutely control, which they completely control and then say that if there is any man who is not willing to trust the people to remedy every wrong, he must leave our shores, that we have no spot under our flag where such a one can find refuge; but our ability to drive men out depends largely on our willingness to make this a people's government and take away anything that stands in the way of the people having what they want, and you will find on this subject of private monopoly that those who stand back of it are the ones who do not want to put into the hands of the people the power to correct evils that have created hatred of government and dissatisfaction with its operation.

But my friends this is such a large subject that I find myself dwelling too long upon the things that I think are of first importance. Let me call your attention to one matter in this connection that I think we have to deal with and that is the profiteer. I do not mean to say that you are to be able to deal as completely with the profiteer by constitutional provision as you may have to deal with him by legislative action, but your Constitution sets limitations of statutory power, and I want you to consider this proposition, that there is no limitation upon a people's government that prevents it from meeting every evil that is presented. Whenever you take from the individual his club and say to him that he shall not avenge his wrongs and shall not protect his rights by individual force and violence, you assume the solemn obligation of protecting him from every arm uplifted for his injury, but when we come to the profiteer we have found ourselves lacking in the machinery necessary to deal with him.

We have at Washington a Federal Trade Commission. I thing it is a good thing, but, my friends, the profiteer question is a very much larger question than one commission at Washington can deal with. It can only

deal with profiteering nation-wide, and we have profiteering that is only a state affair, and I believe that every state should have a commission as complete in its power to investigate as the Federal Trade Commission and that is not sufficient; we have profiteering that is more local than that; it may be confined to a community, and we must have machinery as complete as the evil that is to be remedied or redressed; and so I think your State laws should authorize the creation in every community a trade commission that will have power as ample as the commission at the capitol in order that you may protect the citizens of every community, and if any of you have not yet had your interest aroused in this, I want to say to you that the investigations that are now going on are going to bring the subject before the American people in such a way that no patriotic citizen can fail to be interested. The records at Washington show that during the war coal companies were exacting excessive profits; that while a young man would leave college and lay all his accumulated preparation and his life's hopes upon his country's altar, and while the wife was giving up her husband and the mother was surrendering her son, we find that men actuated by greed were exacting from the people under that stress and strain a profit that cannot be defended before the bar of conscience, and the records show that some of the coal companies were collecting enough for coal to enable them to pay a profit of twenty-five per cent, fifty per cent, one hundred per cent, five hundred per cent and one thousand per cent, and four companies collected a profit in 1917 of two thousand per cent, collected enough profit to retire their capital twenty times in the very midst of the war; and now we find that it is not the coal companies only that are doing it; we find in other businesses they were doing it, and investigations show that there has been extortionate profits made and the disease has spread throughout the mercantile world and the manufacturing world, and I picked up a paper in New York the other day and it had nearly a column devoted to the report that a legislative agent made to a wholesale grocers association, that employed him, and he told how thirty-one bills had been presented in the legislature of New York and thirty of them had been killed; and I saw yesterday a report that had been made in regard to another organization, and I know enough from what I have learned of different states and from what I know of the National Capital to know that today there are great commercial interests that are attempting to deny to the people even the machinery that will protect the people from wrong. Every merchant is a court and the man calls his customer into court and exacts from his customer what the customer owes, and yet when the people ask for machinery that will enable them to bring the merchant before a tribunal and inquire into extortion we find them organizing lobbies to prevent the establishment of the machinery. My friends, those of you who have had any experience with government know that if remedial legislation that is immediately needed is denied, and there is real need, after remedial legislation comes legislation more severe, and I hope before you finish your Constitution you will take notice of the situation and give to your legislature power sufficient to protect every person from every wrong attempted against him, and if it becomes necessary the legislature should have just as much power to fix the amount of profit that a grocer or clothier or any other dealer can take as to fix the rate of interest. Our bankers are certainly men of as high standing as those engaged in any other occupation, and while these men are looked up to in the community we, by law, say that they shall not exact more than a certain per cent for the use of money for an entire year, six, seven, eight or ten per cent for the whole year; if this is fair when you deal with the banking fraternity, haven't we the right to say that those engaged in trade shall not extort fifty per cent, one hundred or two hundred per cent, as they in some cases do?

We found in Nebraska the other day that a shoe merchant was collecting about eighty-five per cent on his sales, and found sometimes that a grocer will buy things from the farmer and sell them to the customer the next day for one hundred per cent profit. Who shall say it is just for a

man to charge as much for handling in a day as it costs the farmer to raise it in the whole summer season, and who thinks it is just for a shoe merchant to charge nearly as much profit for passing a pair of shoes over his counter as is distributed among the factories that produce the article, upon those who carried the hide to the tannery, those who work it in the tannery and those who carried the tanned skin to the factory and those who made it into a shoe and those who carried it back and delivered it to the dealer? Who says it is fair? I believe the legislature ought to be empowered to deal with this question, and if we cannot deal with them in any other way, to put a fixed profit on it and say that they cannot go beyond that profit, the same restrictions that we have for many years imposed upon those who lend money.

I think you should give every town the right to establish its own markets if it wants to; one of the bills that this wholesale grocery firm mentioned was a bill to authorize a city to have markets of its own.

Now, my friends, you will pardon me for speaking with some feeling on this subject, because I believe that is an evil that must be met and that remedies must be provided.

Now, may I take up a subject that has been on my mind for some time, and that is the matter of education. I am an enthusiast on the subject of education. If I had my way about it every boy and girl would have an education. I have no sympathy at all with the old theory that God only intended for a few to be educated. I think we have a right to judge the purposes of God by his own handwork, and if he only intended a few should be educated he would have given brains to just a few and to the rest he would have given strong backs to bear the burdens that the educated ones would put upon them. When he gave brains to all he gave the best possible proof of his desire that all should have the benefit of mental discipline, and I am unwilling to draw a line through society and say that the children on one side shall be educated and the children on the other side denied the right and the benefit of education; and yet while I am an enthusiast on the subject of education I believe the heart is more important that the head. I believe in the Bible when it says that "out of the heart are the issues of life," and I believe we have carried religious neutrality in our schools too far. I believe we have carried it to a point where we are allowing our schools to become Godless. More than that, we are allowing them to attack the foundations of our religious faith. While the hands of the Christians are tied so they cannot defend them. I think especially in our higher institutions of learning we have allowed infidelity and agnosticism and even atheism to be taught while we have prevented the answer being made to it. Having occasion to consider this subject last Spring, I was talking to a man who had devoted a great deal of time to religious education, and he told me of an examination that had been made in regard to those who went out from one of our State Universities and it was found that only twenty-five per cent of those who went from churches and Sunday schools to the university ever returned to active religious work; seventy-five per cent is a tremendous mortality.

I was up in Wisconsin last May and a man who had been a professor in the university told me of his experience; he was a Methodist preacher at the time and he had been a professor in the university before that, and he told me that one day a young lady who was a member of the Catholic church and a member of one of his classes came out of another class and met him as he was going into his class room, and she said to him, "Our teacher has just told us that the Bible is a collection of Myths;" she said, "I don't like to doubt my teacher, but I have been taught to believe that the Bible is the word of God," and when the man spoke of this young lady's distress my thoughts ran back to a passage in the Bible where Mary at the tomb said "they have taken away the Lord from the Sepulchre and I know not where they have laid him."

We have allowed them to undermine the Christian faith while we have not been permitted to strengthen that faith. They were teaching in this country in our colleges the doctrine of Nietzsche, the German philosopher whose heartless philosophy was largely, I think, the foundation of the Ger-

man propaganda. If you will read what Nietzsche says you will find that he not only denies Christianity and denounces it as the doctrine of the degenerate, but he repudiates God; he overturns all moral standards, and he lauds war as a necessary thing and praises hatred because it leads to war, and he expressly denies that sympathy or pitey have any place in a human heart. The only virtue he recognizes is the will to power and that of the will of the beast to trample ruthlessly on all things that stand in the way, and we were allowing that to be taught in our colleges as philosophy while its pernicious influence could not be opposed or overcome by the teaching of the religious answer to it.

I believe that the time has come when the Christian church has a right to say that if we are not allowed to teach the Bible in the public school they shall not attack the Bible in the public schools and undermine the faith of the people. (Applause.)

I hope that when you come to provide for your educational system that you will make the fullest possible provision for public schools; I believe in the public schools, that we should have an open school door before every child born in the land, and that no one child who claims the heritage of American citizenship shall be denied the opportunity for the fullest preparation for life's responsibilities and for the citizens' duty, but I would not in my provision for public schools make any restrictions against any private school; if anybody wanted a school under religious direction, when that school has complied with the provisions fixed for public education, there should be no objection to its existence, and more than that, I believe it is so important that we shall have morals as well as brains, so important that we shall have proper conceptions of life as well as trained intellects, that I believe provision ought to be made so that any religious group shall have permission to teach the religion they believe in to such children that desire to come or whose parents desire them, equal opportunity being given to every religion for the use of time that does not interfere with the public hours of the school.

In other words, I believe, my friends, that while we should not attempt to teach religion through teachers paid by taxation, that we should not close the door against any individual or voluntary forces that the people desire to make, for I believe we cannot have the religion that we ought to have, that the world looks to us for, unless we have a moral training interwined with the mental development, and I believe the greater danger we have today in education is the Godless school where a man goes out with a sharpened intellect and no purpose in life sufficient to keep him from using his greater training against the administration of the good things of society.

Now, I venture to bring up another subject that I hope you will not regard as out of place. All law is written upon a theory, and that theory is in the Constitution, and the theory of the Constitution must be the theory that the people believe in. I believe the time has come to set up the single standard of morals as the theory in our Constitution to which the laws of the State must conform. There must be a single standard of morals or a double standard. If you are silent in your Constitution you can tell which theory is followed by legislation, and I believe now is an opportune time to write into the Constitution of the State the State's belief in the single standard of morality. I can see that the proposition could not have been made five years ago or even two years ago, possibly not a year ago with the same prospect of success that it can be made today, but two things have happened in this country that entirely revolutionized the possibilities on this subject; the saloon has gone out and woman has come in, and these two things make possible what would have been impossible a few years ago. (Applause.)

The saloon was the great enemy of morality in every form. The saloon was the greatest evil with which our nation has had to combat, and it was not only bad in itself but it was the accessory of every other evil. There was nothing with which you could deal that touched sin or vice or crime that did not find in the saloon its greatest support and its greatest champion. The saloon has gone out and I am glad that the State that I look back to as the

State in which I was born had its part in the ratification of that national amendment. (Applause.)

The only great moral reform in 100 years that deserves to stand in the same class with this reform was the abolition of slavery, and Illinois gave to the Union the great Emancipator who led in the fight for the freedom of the slaves and the great general who was at the head of our armies when that victory was won. It would have been lamentable beyond words to describe if this great State had been on record against black slavery and yet made itself champion of a slavery more injurious to our country than the slavery of the blacks. Now, we have it in our Constitution, and my opinion is that the saloon is as dead in the United States as slavery and never more to be revived any more than involuntary servitude is to be brought back into this country. (Applause.)

My friends, we have more than the absence of that great curbing influence, we have also the addition of woman's influence; we have woman's conscience to deal with, and you need only to read the statutes of the states to find how grossly she has been dealt with on the subject of morality.

I had occasion to look up the matter in one state and found that only recently they had changed the law so as to put the man and the woman on an equality in this respect; up to within a few years ago a man could get a divorce from his wife if he could prove just one breach of the marriage vow, but in order for a wife to get a divorce from her husband in that state she had to prove that he was habitual in his practice of breaking the marriage vow. My friends, before women had a chance to vote man's conscious finally compelled him to remove that injustice. I will not speak of the different subjects that illustrate this, but I will simply say this, that if you will go to the statutes of the states and see how unfair the penalties for immorality are divided between the two sexes you can tell very easily which sex was responsible for the making of the law. I believe therefore we should have written in the Constitution the single standard of morals, and that means that there shall be no segregation of sin, that there shall be no licensing of vice, and that the penalties for immorality shall bear equally upon the sexes. The moment we attempt to license vice we give to it a certain respectability and recognition, and we found in the case of the saloon the moment a man got a license to open a saloon he insisted that his was a legitimate business and we must not interfere with it, and upon that basis when prohibition finally came some of them insisted that we should pay back the money that they had invested in the business. Do not allow any licensing of immorality for fear when the time comes that you destroy it and withdraw your law you may be asked to pay back the money invested in the immorality under license.

Now, my friends I am not sure, I was not when I came here, that all of you would agree to this, and if I thought so when I came I have noticed certain things that convince me that my views are not unanimously endorsed, (Laughter) but do not understand that you invited me to come and say what you already believed, but rather to present the things that I believe important for consideration, and I have often had occasion of presenting things that were not at first accepted, but I have the pleasure of seeing them accepted afterwards. (Laughter). And if this Constitutional Convention is not willing to put into the Constitution of Illinois the single standard of morals I am still young enough to expect to see a body of men and with the aid of women who will not be afraid to reduce man to the same level as woman on this subject and not make it respectable for a man to do what a woman is ostracized from society for doing. (Applause.)

We must stand side by side before the judgment bar of God and there render account for the deeds done in the flesh, and if we must stand before the same God and be judged by the same law there, let us not in man's tribunals fix a different standard for men and for women; but my friends, I recognize I have been trespassing upon your time and I cannot expect you to forgive me if I have not proven to you my deep interest in the subjects with which you are dealing. I am not going to take up questions that I think are of minor importance because I am too deeply interested in the fundamentals.

I believe we have come to a time when what is called the short ballot will be found a greater protection to the people's interest than a ballot so long that they cannot know who the people are on the ballot. (Applause.)

I said that first before I added what I am now going to say because I wanted the applause to come on the principle, and then I would present what I think has to go along with it. I believe, I say, in the short ballot; instead of trying to pick out a large number of state officials I think I would pick out a few, the most important. Of course the governor would be the one of greatest importance, and next to him I regard the lieutenant-governor as important, for we have no insurance against the death of a governor. He is a man and he must pay the debt to nature like others, and therefore the man who is to take his place in case the governor dies should be elected as the governor is; and then the attorney general I think ought to be elected by the people; I think that the man who is to enforce the laws as the legal officer of the state stands very close to the governor and should likewise receive his commission directly from the people, and so you might say would one who handles the treasury accounts and the auditor; I will not attempt to fix these; I simply mention these as among the more important, and then my friends, if you are going to have only a few responsible to the people these few are the one who ought to have the appointing power, and if this is vested in the governor it should be with such restrictions as can be thrown about it, but more important than that is the right of recall. I don't know what you folks may think of the right of recall but my advocacy is based upon one fundamental principle, that it is more important that the people shall have men they want than that a man shall draw a salary after the people are tired of him. (Applause.)

The only theory upon which you select a man is that you want him, and the only theory upon which you pay him a salary is that he shall do for the salary the things you want him to do, and if now you are going to concentrate authority in the hands of a few men who alone will be elected by the people and elected for a term of years, for I suppose that you will make your governor for four years and the others will be probably for four years, and if you are going to give a man a lease of power it is on the presumption that he will do what you want him to do as expressed in your confidence in him, and if he fails to do it, it is more important that you shall have the right to remove him when you want to, than he shall have the right to misrepresent you and draw money from your pocket for misrepresenting you.

I do not mean to say that the people will never use the recall unwisely, but I think the chances are many to one that they would refrain from recalling a man when they wanted to rather than recall him when he ought to be recalled, and if the people do an injustice by recalling a man who ought not to be recalled I think they will be glad to make reparation if they find later that they have made a mistake, and the correctional mistake will far overcome any mortification that the man might feel when the mistake was made, and I would apply this to every officer elected by the people. I would apply it to judges as well as to executive and administrative officers, and I hope you will not think I am speaking disrespectfully of a judge. I have every reason to respect the bench. My idea of the law as I gathered it as a child was from my father who was on the bench from the time I was born until I was twelve, and I believe that our judges are of as high quality in this country as can be found in the world, and I regard it as probably the highest compliment that can be paid to a man other than to be elected to a Constitutional Convention, to make him a judge. It implies respect and confidence, but judges are human, and we have had enough experience in this country to know that they are human. We had, for instance, in 1876 an electoral contest; we took five men from the Senate, the best we could get there, five from the House, the best we could get there, and we took the five judges highest on the Supreme Court bench and we said, now, if we can find an impartial lot of men to try the most momentous question that was ever tried by a tribunal in this country, surely we have found them, and we tried the case and they stood eight to seven, and each

man voted in the session just as he would have voted had he gone to the ballot box and voted on a secret ballot, expressing his own view, and we found five judges on the Supreme Court bench divided politically, and the democrats suffered because the man they expected to be there we thought with a leaning to our side was elected to the Senate in the meantime and it gave the republicans one advantage over us that we did not expect them to have. That is the way the Supreme Court acted, and we see them in Washington, for instance, deciding on the income tax five to four, and one judge whose decision fixed it changed his mind between two hearings of the case and it took us 17 years to change that opinion, and then we ratified the amendment of the Constitution that authorized an income tax, and without it we could never have done our part in the recent war.

My friends, no man who serves the people ought to be out of the reach of the people and no matter whether he is a judge or executive officer he ought to be within the reach of the recall, and if it be true that democracy is sweeping on, we cannot turn back on the most fundamental principle of democracy; the tendency is more and more to trust the people, and my friends, I believe that it is a righteous tendency. I believe the day will come when there will be only one form of government on this earth and that will be a people's government, a government that derives its power from the consent of the governed, and if democracy means anything it means that faith in the people that puts in their hands absolute control of their government, even the control of all their officials, and if you are afraid to trust the people to deal justly with judges as well as other officials you have yet some advance to make before you are in harmony with the onward sweep of democratic sentiment throughout the world.

Now, my friends, I have spoken, not confining myself to this which I would have read, but for my dislike of reading anything, and I have only dwelt upon the things that to my mind seemed important, and I repeat what I said in the beginning; I am not vain enough to think that you will accept anything I say because I say it, but I have faith in the righteousness of the things I have said, and my father taught me before he left this earth, and he died when I was only twenty, taught me to believe in the omnipotence of truth; he told me that I could afford to be in the minority but that I could not afford to be wrong on any subject; he told me if I was in the minority and right I would some day be in the majority, and if I was in the majority and wrong I would some day be in the minority, and every year since then my faith in the triumph of the truth has been strengthened. He believed in the people, and I have inherited his faith, and it has been confirmed by my increased acquaintance with the people.

Of course you come here the servants of the people, recognizing your responsibility to them and with an ear single to their services. I thank you, I thank you earnestly for the opportunity you have given me to lay before you the things I believe are important in constitutional government, and they all rest upon one thing, and that is faith in the people. Make it easy for the people to remove every abuse. Make it easy for the people to take steps in advance.

If you think there is anything about the Initiative and Referendum that is dangerous, consider the things that you think are dangerous elements, but do not condemn the principle of the Initiative and Referendum. Do not tie the hands of the people tomorrow by any restrictions that you may think necessary to put on the majority. Let the people rule. We have been in the habit of making it hard for the progressive forces of society to advance. Our legislation gives the presumption to those who do not want to go forward. In our legislation if anybody wants to go forward he has to have both houses and the Governor; if he wants to hold back all he has to have is one house and the Governor. You make it three times harder to step forward as you do to stand still, and under our Constitution we must have two-thirds of both houses to submit an amendment. That means if a proposal can control one more than one-third of one house

they would stop progress. When we adopted the constitutional amendment prohibiting the manufacture and sale of liquor, we had to have three-fourths of the states; we had to have two houses in each one of the 36 states; we had to have 36 states with 72 houses, but those who wanted to oppose it only had to have 13 states and one house in each state; the people opposed to prohibition only had to elect 13 houses and the people in favor of it had to elect 72 houses in 36 states; it was a tremendous handicap; it is not fair that the progressive forces of society should thus be tied and this enormous advantage given to reactionary forces of stationary forces. If you are not willing to trust a majority of your legislators submitting an amendment, it is infinitely better that the majority shall act twice in successive legislation than to make it necessary to have two-thirds in any legislature.

Do not tie the hands of the people. Give them a chance to have what they want, and you will find that the people cannot only be trusted but they are the only ones upon whom we dare to build a government and to whom we dare to give absolute power. You can trust them to put upon themselves in the hours of calm deliberation such restrictions as shall prevent hasty action or action without deliberation, but as you are the representatives of the people, trust the people who sent you here and do not tie their hands and make it impossible for them to meet the new conditions as they arise. Civilization is a developing condition. Lincoln said in his great speech at Gettysburg that he left an unfinished work. We all leave unfinished work; we cannot complete it; those who come after us take it up and conform it to their will.

I thank you for the opportunity of speaking to you and I beg you to have faith in the people and make your Constitution such that the people of Illinois will own this government and be able to meet every question when it comes. I thank you for your attention. (Long applause.)

Mr. GREEN (Champaign). I move that this Convention do now adjourn.

(Motion prevailed.)

Whereupon Convention adjourned to Thursday, March 25, 1920, at ten o'clock a. m.

THURSDAY, MARCH 25, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Tuesday, March 23, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed the Journal of March 23, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Mr. FYKE (Marion). Your Committee on Corporations and Co-operative Associations makes the following report and moves its adoption:

March 24, 1920.

To the Honorable, Charles E. Woodward, President, Constitutional Convention:

The Committee on Corporations and Co-operative Associations respectfully returns to the Convention, Proposal No. 157, with the request that it be re-referred to the Committee on Distinction Between Legislative and Constitutional Subjects.

EDGAR E. FYKE, *Chairman.*

(Report adopted.)

Whereupon the Convention proceeded upon the further order of reports of select committees, first reading of proposals, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

Mr. REVELL (Cook). I move that the Convention adjourn until tomorrow morning at ten o'clock.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Friday, March 26, A. D. 1920, at ten o'clock a. m.

FRIDAY, MARCH 26, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Wednesday, March 24, 1920, was printed and placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed to the Journal of March 24, 1920, it will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of general orders of the day, reports of standing committees, reports of select committees, introduction of proposals, motions and resolutions, unfinished business, and general orders of the day.

Mr. GREEN (Champaign). I understand that it is impossible to tell at this time definitely when Governor Allen will be in the city to address the Convention, and I move that we recess until two thirty o'clock this afternoon.

(Motion prevailed.)

Whereupon an adjournment was taken until two thirty o'clock p. m. of the same day, Friday, March 26, 1920.

2:30 o'CLOCK P. M.

The Convention met pursuant to recess.

The President in the chair.

THE PRESIDENT. A few days ago an invitation was extended to Governor Allen of Kansas to appear before this body in Committee of the Whole to discuss with it the questions of land tenantry and industrial courts. The Governor is with us this afternoon and is now ready to discuss those questions.

The Convention therefore will resolve itself into a Committee of the Whole to hear from Governor Allen. As chairman of the Committee of the Whole the Chair designates Delegate Dunlap of Champaign.

(Whereupon the Convention resolved itself into a Committee of the Whole, Chairman Dunlap presiding.)

CHAIRMAN DUNLAP. For some time the Committee on Agriculture has had under consideration a solution of the matter of farm tenantry in Illinois. The rapid increase of farm tenantry calls for some attention on the part of this Convention. Desirous of obtaining the greatest amount of information upon this subject possible, we have invited the distinguished citizen of Kansas now here to talk upon a question in which we know he has been very greatly interested. I now have the great pleasure and honor of introducing to you Governor Allen of Kansas. (Applause.)

GOV. ALLEN. Mr. chairman, ladies and gentlemen, members of the Constitutional Convention:

It is a very great privilege to come here and ride this hobby of mine in your distinguished presence. I think we are all glad to come to Illinois these days because of the very fine and constructive work which has been carried on for the improvement of State government under the leadership of your distinguished Governor. This work has attracted the attention of the nation, and I am always glad to come into a State which is trying to improve its Constitution and which, in the beginning, is not afraid to try to improve its Constitution.

In this particular period there seems to be a wave of precaution in the country. I have been recently in the Constitutional Convention of Ne-

braska and I noticed there a very definite trend not to do anything new. I believe they have finally decided to give their legislative body the permit to pass a law for the extension of State aid for the encouragement of farm owning. They have also written an article into their Constitution making it mandatory upon the next State legislature to adopt a court of industrial relations.

I believe that the land tenantry subject embraces the greatest menace that now confronts this nation. The last period of official census taking previous to this one showed 440,000 tenant farmers added to the list, shows 30,000,000 acres of land taken from farm owners and placed in the hands of land speculators, and I have no doubt when the record is made up embracing the present period of census taking the percentage discovered in the last ten years will have held good for the present.

Our State, which is new, has already reached the point where practically fifty per cent of the land is held by men who do not till it. More than 70,000 farmers are tilling land they do not own. In this State as doubtless you are aware, in some counties the percentage of absentee landlordism is above 70 per cent, and in a number of counties it is sixty per cent, and I dare say in the State as a whole it would be considerably more than fifty per cent.

I know the objection that is in the minds of most of you who do not believe the State should extend its aid for land owning. In your mind it is State socialism, paternalism or dragging the State into private endeavor, or this or that, or if you have no particular objection it is an impossible effort to seek to legislate thrift into a man. I want to say this effort is not a new one. Every nation, every old nation on the globe has been obliged to meet the subject of the redistribution of the land because there has always existed at some period in the nation's history a condition which brought the change and the necessity of planting people in the soil.

The old Roman republic had this peculiar eligibility for its army; no man could serve in the army unless he also owned land. So they took the land away from the proletariat and gave the land to the soldiers because they realized a man fights better if he owns something.

In France during the last dreadful war, that devoted republic was able to meet for the first two years of the struggle an army that over-matched her every moment. She was able to do this because sixty per cent of the soldiers of the French army owned soil. If you want to make the republic impregnable, plant people in the soil where they will have something to fight for. A man will put up a great fight for the thing he owns when he will not put up much of a fight for his boarding house or rented homestead. There is going on in this country today a constantly decreasing average of agricultural production and agricultural interest growing out of the fact that farm labor is disappearing. Men are going to the cities, tenants are becoming scarcer and speculation is increasing. Go into any tenant neighborhood in this country, the improvements are haphazard, they have grown up like Topsy, and you can pick the tenant neighbors out by the physical appearance of their places. The tenant farmer who drifts from one farm to another eixsts for one purpose, and that is to rob the fertility of the soil. The speculator just owns it for the unearned increment in it. You find them drifting to the cities, the children of the tenant farmers, they have no future outlook in the neighborhood, and the daughter stands in the door of the shabby tenant house on the farm and looks out upon no prospect in life. She wonders how soon it will be before she can induce her father to move to town where he will perhaps drive a truck and where she may secure work possibly in a telephone office.

The American farmer in the Eastern States has gone away, he has gone into that nameless unclassified industrialism that is known as day labor, and the Bohunks have taken the farms. You go to the far West and in the small communities the American farmer has gotten to the point where he is not able to compete with conditions and the Orientals have taken the small farms, and so we are coming to a condition in the middle west where industrial unrest in the country is increasing. Why? Because of the fact

that fewer men all the time are owning farms which they expect to till, and great areas of farm lands, the best in the country are being seeded to grass as farm labor disappears, and we wonder how to start a movement back to the farm.

My friends, there is only one way to start a movement back to the country, and that is to give men an opportunity to go back to farms they will own themselves; they will not go back to rented farms. If you would increase the farm labor, break up some of the great holdings into small moderate holdings and give the farmers an opportunity to build their own homes and you will get from the cities and from all walks of life a great many men who want to come back to the soil, if you can make it possible for them to purchase the soil. Has this been done, you ask? Yes. Denmark came out of her last war with all the land being owned by something like 175 people and the wise king decided that Denmark could never go into another war with that condition of land owning. So they established state aid, state loans to men who wanted to buy land. Today more than 90 per cent of all the people who till the soil in Denmark own the soil they till, and the population is increasing on the farms, the only country where that condition is true.

New Zealand began more than a quarter of a century ago to struggle with this problem. Like many of God's providences, it began in a peculiar way. They passed a law that provided that any man who was discontented with the valuation placed upon his farm for the purpose of taxation could make his own valuation, put his own valuation upon his farm and pay taxes to his own notion of what his farm was worth. This reservation was made, that the valuation for the purpose of taxation should be the selling price of the farm in case the State desired to buy it. Then one day an Englishman who owned 80,000 acres of New Zealand land objected to the valuation for purposes of taxation and took advantage of his option and put his own valuation upon it. The land commissioner who was a wise man bought the land at the Englishman's valuation and New Zealand had 80,000 acres of land on her hands and no policy. So they divided this land up into five holdings and in five years they had multiplied by more than 1000 per cent the human population upon those acres and they had multiplied by 5000 per cent the live stock upon those acres and they had worked out the solution of a problem which is today disappearing in New Zealand. In the years since 1884 up to 1912 New Zealand had purchased and resold 1,750,000 acres of land. She had bought it from 194 people and she sold it to a trifle over 6,000 people, and she multiplied the population and production and in addition to that, because New Zealand both buys and resells the land, in addition to that New Zealand from 1895 to 1912 had loaned $60,000,000 to 33,000 people and had just 32 foreclosures, and in New Zealand today they have solved the problem of tenantry.

Australia has followed New Zealand's lead, Canada has followed it and France, which already had the best land laws, because France distributed her land after the Rebellion, is always working on the subject. In April, 1918, when upon the streets of Paris in the still hours you could hear the guns at Chateau Thiery, the French Parliament passed a new homestead law. It made provision that the land of the soldier who had fallen and left no one to cultivate it should be resold under terms perfectly honorable and profitable to his widow, or those who inherited it, the purpose being to put the land back in the hands of a man who will till the soil. That was the essence of the French trick.

I remember sitting one day in Nancy, after our men had taken back Villecourt, and there met the Prefect of that department and some Red Cross agents who had been sent to see what could be done for the refugees who had come out of German bondage. Old man Mermot, the Prefect said, "You have asked me a number of times for the real foundation of our strength. Here are some of the reasons, in the presence of these men. Here are present 166 Frenchmen, and with the exception of four of them they are all living in the houses their grand-fathers builded."

You cannot destroy a nation that is planted like that in the soil it loves.

In Kansas we are seeking to meet this issue in the same way that California is meeting it. California established six years ago an irreducible sum of $250,000 from which she was to purchase and resell land. It was to be the beginning of the program. If it worked well, then the State was to do more. With that $250,000 she bought 5,000 acres and placed upon the farms 120 farmers and watched the experiment grow. At the end of three years they added to the $250,000 a million and took 10,000 acres more of the land and added more farmers and now there is before California with every prospect of its passing a bond issue of ten million to extend this thing. Kansas has decided, I think she has, anyway she will have an opportunity to pass on it in the next general election, to give the legislature the permit to extend to worthy people who wish to own land by the purchase of it and its resale, believing that you can sell the land that you own on better terms than by lending the money. I do wish however, that our constitutional amendment had the provision for lending as well as for selling; our constitutional amendment provides for buying and selling and for using money to improve land, that is in irrigation projects and adventures of that sort. We believe that we will be able in Kansas to have 5,000 new farmers a year if we can extend to them the State aid they need. Oh, well, you say, any man who is worthy of owning a farm can get the chance. You cannot legislate thrift into the people. That may be so, but by a little State aid at the right time you can take a man from this class and put him into this class. A great many men think they are self-made men and they look scornfully back on the lives of other men. And yet I dare say there is not a self-made man in this room who did not at some time at a critical moment in his life enjoy some one's friendship in a beneficial way (applause), because we were not born with credit.

You say, where will the people come from who will go upon the farms? In New Zealand the land commissioner has never been obliged to use 25 per cent of the applications on his books for lands to be purchased with State aid. California has had more than twice the number that she has needed during the last two years to carry on the project. You give the word out that Illinois is going to encourage farm owning, that she is going to extend her credit to worthy men, whose worthiness will be passed upon by business judgment, and you will be swamped with the applications of men who want to live upon the farm. There are more soldiers than you dream of that want to go on to farms. My mail is heavy these last few months with letters from boys in the service, because they have got a hazy notion we have done something to help them. I got a letter the other day from a boy in France, a top sergeant who wanted to take advantage of whatever the State is doing to help soldiers to get upon the land. He said, "I have saved $600 in the service and I don't want to go back to the garage." We don't need to worry about the future of a boy who can save $600 in two years service in the army after he has paid his allotment and his insurance. This boy is going to succeed. He cannot do anything toward getting a farm with $600, hence he is going to succeed in the automobile business, and yet we wanted him for a farmer and he wanted to be a farmer.

My State is filled with men who would react to the country if there were any hopes of them getting and owning a farm. The Federal land bank made an effort to help the situation. But the Federal land bank is a failure so far as helping men back to the farm. Why? It helps men who own one farm to buy another, that is all it does. It has in it no relief for any man who cannot provide fifty per cent of collateral for the loan he wishes to float, so it is just another bank. What we need is some condition that will give to men a chance to buy land, buying it and owing for nearly all of it, and paying the debt at a low rate of interest on long periods. New Zealand has lost nothing in the effort, Ireland has lost nothing, Denmark has lost nothing, Australia has lost nothing, and Canada is making a success of it. My friends, I think Illinois can do anything that any of these other

countries can do. We have been easy going, we have subjected our lands to speculation from the beginning, and this has come upon us within the last few years with a terrible realization and it is a problem that must be solved.

In Kansas, in addition to the amendment providing for State aid, we are also trying to help men with the taxing situation. In Kansas we have the archaic system of taxing farm mortgages, and we are doing away with that. We are also giving the legislature the power to classify property for the purpose of taxation. Then we hope not only to place upon the tax books of the State some of the invisible property that now escapes, but also to make it easier for a man to buy a farm by relieving from taxation a part of the cost of farm improvements.

Here is an illustration. Here are two farms. On this side of the road people occupy a farm; it is the home of the man who loves it and it was the home of his parents. It has a good house, a good barn, good fences all around; on the other side the farm is owned by a man who lives in my town. He just owns that farm because he is a land grabber; he doesn't care anything about the farm. He lets one floater after another move upon it, burn the fences and rob the soil for a year. He is holding the farm until land in Kansas becomes as valuable as land in Illinois, and is not paying any attention to the treatment of the soil. Then comes along the tax assessor and he looks at the farm move the man loves, and has built it out of his love in the expression of agriculture that is the strength of the nation. He puts a heavy valuation on that farm for the purpose of taxation. He looks at the neglected acres owned by the speculator and he puts a low valuation upon it. He penalizes the farmer and he puts a premium upon the land speculator by letting the neglected farm off with a smaller tax. We expect to improve that by taking a part of the taxes for improvement off so this unimproved land may bear relatively a little larger share of the taxes.

We have in Kansas many thousands of acres owned by the Scully estate, and held with this idea, first, they will never sell any land they buy, and second, they will never improve any of it. With the careless tenant laws of this country if a man goes upon a Scully piece of land he makes his own improvements, and when he moves away there is no protection to him for the improvements he built on another man's land.

We do not seek in Kansas to dispossess exactly, but we will send out word that Kansas is in favor of men owning their own farms, that it is not as good an atmosphere as it used to be for a man to speculate in farm lands, that the sentiment is against it, that we are seeking to build up the man who wants to till his own soil. We will put a new dream in the brain of the man who wants to own a farm. We will say the State is behind the strongest thing in its civilization, the agriculture of the State and that is the strongest thing in any State's civilization.

Will you kindly ask me a few questions? I have rambled over this very hurriedly. Then I will say something about our industrial court.

Mr. HAMILL (Cook). I understood you to say that the speculators have bought up the land. From whom did they buy it?

GOV. ALLEN. They bought it from the farmers.

Mr. HAMILL (Cook). Why did the farmers sell?

GOV. ALLEN. Some of them were old and tired of farming, some of them were tempted by the price, the high price of land which had been built up on speculation.

Mr. HAMILL (Cook). Nobody compelled them to sell?

GOV. ALLEN. No, it was just the trend.

Mr. GALE (Knox). If the State were to go into the business of making loans for the purpose of putting tenant farmers on the lands what effect would it have on the already high prices of our lands in Illinois?

GOV. ALLEN. Well, it depends on the spirit in which you go into it somewhat. You merely create another class of buyers, a class of buyers the desirability of which exists in their reasons for going upon the farm. You are putting the legitimate farmer in competition with the speculator, and the speculator is always a little nervous and timid. He sees what is

coming, and he says, "I believe I will sell my land in order that they will get a real farmer on the land." The tendency would be to cut out speculation in farm lands. The men buying the land are bound to stay upon the land, and they will.

Mr. GALE (Knox). You know, Governor, one trouble we have in Illinois now is that our lands have gone to utterly unheard of prices, higher than they ought to be. Now, if you add a new class of buyers, will you not aggravate the difficulty?

GOV. ALLEN. No, I do not think so. When we get back to normal—of course you understand the present high price of land results from several causes. One is that it is of course safe to invest in land, and then agricultural profits are rather high at the present. But there is going to be a movement backward, I presume, and therefore we will not be able to keep land at four to five hundred dollars an acre and make it profitable; and then this movement on the part of the State will not be sufficiently extensive to boom lands. It is a movement to correct that evil, a movement to place upon the land a new class of tillers of the soil. The men who have been setting their land to grass will see this is a good movement, and will say, if I can get a good man in my neighborhood who will buy forty or twenty acres and raise his boys there, I will have somebody then who can work for me. It is a thing, of course, that requires co-operation, and the co-operation of the State is advisable because the whole land problem is a hindrance to those who just buy and sell as a speculative matter. I have a letter here, and it is typical of probably fifty that I have received since we started the movement in my state; the writer says that he has 800 acres of land in Pratt county, Kansas. In 1884 Pratt county had 14 per cent of absentee landlords. Today Pratt county in the township in which this farmer lives has 62 per cent of absentee landlordism, and he says, "I wish to retain for myself 160 acres of this land. I am willing to sell the balance at whatever price the State commission wishes to place upon it because I realize that with the rapid growth of tenantry this township has been destroyed as a desirable place in which to live."

I have fifty letters from big land owners, letters of that type, because, thank God, there is still such a thing as a patriotic citizenship in the land yet.

Mr. GALE (Knox). What percentage of the cost of the farms should the State lend, the entire cost?

GOV. ALLEN. I should say it might depend upon what other property the applicant has, how well equipped he was to proceed with his farming operations, what his history was, what the probability of his making a success was, what sort of risk he would be. If the State wished to sell the land at 90 per cent, taking his obligation for 90 per cent it might be necessary to do that. New Zealand and Denmark, Canada and California are doing that.

Mr. GALE (Knox). You advocate the State handling that, how?

GOV. ALLEN. I would say through a land commission. If you are going to simply limit your experience in Illinois to loaning, then I would say I would create a bank and handle the debentures.

Mr. SHAW (Cass). Should this Constitutional Convention make a provision in the Constitution whereby the legislature should take this matter up at a considerable time in the future, do you consider it would be class legislation?

GOV. ALLEN. No, it is not class legislation. It is legislation for the improvement of agriculture and the security of government.

Mr. SHAW (Cass). You do not see any reason why the coal miners or industrial workers, or any city dweller should feel they had the same privilege of asking State aid?

GOV. ALLEN. They have advantages in the city they do not have in the country. In the city they have building and loan associations which provide a system of easy purchase of homes, but this land problem would be open to any man whether he lived in the city or country if he wanted to own a piece of land, and you would get from the ranks of labor a good

many people. In our State the heartiest commendation has come from union labor.

Mr. SHAW (Cass). Do you think the attitude of union labor will be favorable to this movement?

GOV. ALLEN. Yes.

Mr. SHAW (Cass). Do you think this movement in this and other States is necessary to preserve the food question?

GOV. ALLEN. Yes, I certainly think so. You are doing in Illinois what we are doing in Kansas. We are educating 2,000 fine young men a year at our agricultural colleges, educating them to be first class farmers, and more than half are drifting away; 40 per cent are going to Canada; they are hunting for a place in which they may express their education and their desires, because we have allowed the land speculator to take away all the opportunities which exist in this country.

Mr. SHAW (Cass). It has been suggested in the agricultural committee that the system of farm credits would not take care of this proposition, they would go to Canada just as they are doing now.

GOV. ALLEN. If the system did not work it would not cost us anything.

Mr. SHAW (Cass). Do you think anything can be done in reviving the old farm leasing system that would help?

GOV. ALLEN. Yes. We will not get rid of farm tenantry altogether in this country until we build up some scientific leasing system. For instance, in England Scully could not operate as in Illinois. The other day one of Scully's tenants after he had built $8,000 worth of improvements moved away and he sold the improvements for $5,000 to a man that Scully's agent wanted. He could have sold them for $8,000 to another tenant, but the agent did not approve of him. Under the laws of England, Scotland and Ireland that tenant would have been protected in the property. We have done nothing for the tenant in this country.

Mr. SHAW (Cass). Do you think this problem could be taken care of by building up the proper leasing system without the farm credit?

GOV. ALLEN. Oh, no, I think it would help, but it would not be a substitute, it would not get men back to the soil.

Mr. DUPUY (Cook). You spoke a few moments ago about the shiftless tenant on the farm, who robbed the soil, burned the fences and exhibited general signs of incapacity. Do you think he would be a good man to make a loan to?

GOV. ALLEN. I am not thinking of him, I am thinking of the chap who did not stay but left in discouragement and sought something else to do that he didn't like to do so well.

Mr. DUPUY (Cook). Is it true in your State as in this that in a good many cases the farmer who has lived on his farm a good many years moves into town or city or village nearby and the occupation of the farm goes to some man that works for him or some younger friend of his, and therefore he becomes an absentee land owner. What would you do in that case?

GOV. ALLEN. There is nothing evil in that situation. There is only about ten per cent of absentee landlordism that is represented by that kind. In this movement there is no effort to dispossess a man. We have no objection to any man who has grown up on the farm moving to town for the better school advantages and who leaves a good tenant; there is no objection to the man who lives in town and owns a farm if he gives his attention to the farm and is interested in the farm. That is not the character of landlordism that is dangerous to the country.

Mr. DUPUY (Cook). Is it not true that the tenants who are occupying the farm and paying the prevailing rates of rent can do it a good deal more cheaply than he could own the farm at the present high price of land?

GOV. ALLEN. That is true in some neighborhoods, undoubtedly, but if you could give him State aid and have laws which would give him protection I think you would find a good many communities would be benefitted by it.

Mr. DUPUY (Cook). Could this system be put into operation and be extended in a large way in the matter of the purchase of farms to a particular class of persons, those who wanted to live on the land without being an incentive to all other classes of persons who might feel they might want State aid?

GOV. ALLEN. I think, like every other law, its success would depend on its administration, and the Governor's appointive powers will have to see to it that such a land commission will use this provision for the benefit of worthy men who will likely succeed at it. You would not give every man who came the right, but you would canvass, as they do in California and Canada and New Zealand and choose out of those who apply the men most likely to succeed. If you are going to throw it open to everybody who would enjoy some State aid, I would say it is a foolish thing to do. I am taking it for granted in Illinois it would be a business-like operation.

Mr. MILLS (Macon). At what price does the State sell the land they purchase?

GOV. ALLEN. Of course the legislature would frame that in its law. I presume the State would not wish to make any money on the purchase and sale of the land.

Mr. MILLS (Macon). As I understand it do you fix the price or the present owner?

GOV. ALLEN. In our State and in California we get in touch with the land that is purchaseable, and oftentimes a man desiring a particular piece of land, he may have already made his bargain with the owner of that land and he comes and tells the commission, and the commission passes upon the reasonableness of that price and the likelihood of this man succeeding. The commission would have exactly the same elasticity that a bank would have.

Mr. MILLS (Macon). Then how would you provide for the home of the farmer? For instance, here is a large body of land that is purchased by the State and you divide it up into smaller tracts?

GOV. ALLEN. That is what New Zealand has done.

Mr. MILLS (Macon). How do you provide for houses and barns?

GOV. ALLEN. In Illinois and Kansas most of the farms that can be bought and resold are already improved farms.

Mr. MILLS (Macon). What I have reference to, here is a half section of land that is in one body. I suppose you have many farms of that size in Kansas, and there is only one set of improvements, and here are three or four men who are anxious to buy that half section. How does the State arrange for the division of those improvements?

GOV. ALLEN. The commission will adopt a policy. In California they have limited it. They will not loan above $15,000 to any man. New Zealand has that also. Canada has taken hold of that and handles it in this way: They will loan the man, after they have given him the chance to buy the land, they will lend him $2,500, if he has been in the service of the army, to get started in his operations. If he is a young man, whether in the army or not, if he will go to the agricultural college and is a good risk, they will lend him $7,000, a part of which he pays upon the land and a part of which he provides for his improvements.

Mr. MILLS (Macon). That is so that he can get his implements and so forth?

GOV. ALLEN. Yes, Canada has gone that far. When you see the definite action that Canada has taken and realize as you must that we are going to compete with that agricultural country, you realize that the United States of America in her great agricultural States like Illinois and Kansas will have to do something to hold her own, because Canada is doing that wonderful thing, giving a man 160 acres of land and allowing him 20 years time in which to pay. If a man will devote himself to agriculture and take the agricultural courses the loan is $7,000 at five per cent from the State. When you see our neighbors doing that you realize they are taking time by the forelock.

Mr. MILLS (Macon). I understand you it doesn't apply to farmers or absentee landlords that have arranged for long leases?

GOV. ALLEN. No, no, we are not opposed in Kansas to the big farm or institutional farm that operates with science and has jitneys all over the place.. We object to the neglected farm and the absentee speculator.

Mr. MILLS (Macon). If I may put my own interpretation on your answer it is this, that you want the tenant to be treated just like the landlord would want the tenant to treat him if the postitions were reversed?

GOV. ALLEN. Yes, in Kansas we are appearing in behalf of the land.

Mr. MILLS (Macon). In other words, The Golden Rule?

GOV. ALLEN. Yes.

Mr. WALL (Pulaski). Governor, I would like to ask you one or two questions. Speaking of your land commission, is theirs an appointive or elective body?

GOV. ALLEN. The amendment is now before the body, it will undoubtedly be an appointed body.

Mr. WALL (Pulaski). How many persons?

GOV. ALLEN. We hope one land commissioner with agents in various districts.

Mr. WALL (Pulaski). Does he do the buying now?

GOV. ALLEN. The thing is not in operation in Kansas.

Mr. WALL (Pulaski). When it becomes operative?

GOV. ALLEN. Undoubtedly the legislature would require that he shall be in charge of the buying, but where the buying passes a certain sum he shall have to consult the Secretary of Agriculture.

Mr. WALL (Pulaski). What is your idea with reference to buying the title in the name of the state or commission?

GOV. ALLEN. The idea is that the state shall hold the title to the land until the tenant has paid off to a point where he can show he can handle it as a private matter and float the mortgage.

Mr. WALL (Pulaski). It would be the duty of this land commissioner and his agents to ascertain the land that had been held for speculation and bought purely for that purpose, to find out whether or not that land was for sale and buy that first, would it not?

GOV. ALLEN. Not necessarily. We are only going to start with a fund of probably a quarter of a million and then select the best combination of circumstances in every case, the man that is most likely to succeed and the land upon which he is most likely to make his success. And then when we have proven the workableness of it we have a fund in our treasury of some $12,000,000 that came from land, the earnings of which belong to the school fund and there is nothing more logical than that fund should be used to restore farmers to the land. We will use that as a revolving fund out of which to buy and resell.

Mr. COOLLEY (Vermilion). From whom would they buy these farms?

GOV. ALLEN. From the man who wishes to sell. The land commission would make its survey, which would prevent men from speculating with the state. We are depending upon the reasonable desire of men who live in the state to get tillers of the soil, men who will stay upon the land.

Mr. COOLLEY (Vermilion). That is good business at a time like this, of course. You are aware in this country it is becoming absolutely necessary in many cases to take a man as a tenant in order to get his labor?

GOV. ALLEN. Yes.

Mr. COOLLEY (Vermilion). Excuse me for being persistent, Governor, but you have not yet satisfied me that when a man buys with a greater line of credit extended to him, buys a farm that cannot be sold otherwise, you fail to raise the value of that land.

GOV. ALLEN. If they raise it too high the land commissioner will have the liberty of refusing anybody's land, and if he is a wise man he will buy it cautiously and will be governed by tax values and other conditions in the neighborhood. There is no reason for a Constitutional Convention refusing to allow remedial legislation through the fear that men are not going to be honest. We have got to risk that, you know.

Mr. COOLLEY (Vermilion). Do you know, Governor, that Illinois once loaned so much money that she came dengerously near repudiating her debts?

GOV. ALLEN. No, my attention has not been called to that.

Mr. COOLLEY (Vermilion). This is the history of that occurence: Under the Constitution of 1818, our credit became so badly impured that only the courage and ability of Governor Ford forced Illinois to follow the honorable course in regard to her credit.

GOV. ALLEN. Oh, I would not follow this plan extensively. I would limit the amounts loaned.

Mr. COOLLEY (Vermilion). If we adopt this principle, how will we get at those large bodies of land held by speculators?

GOV. ALLEN. I do not think there is any direct way unless you wanted to use a drastic tax weapon. I think the major part of absentee landlordism operates upon a comparatively small farm. A man owns 160 acres here and 160 acres there and here 220; many men would welcome the opportunity to sell it if it were to be tilled and made a part of the agricultural strength. That has been the experience of these countries that have tried the system out.

Mr. COOLLEY (Vermilion). Isn't it a fact that California developed her resources by this plan to a very great extent?

GOV. ALLEN. This is only six years old in California; they have gone far enough to catch the confidence of the state and now the state will give them a revolving fund of 12 million.

Mr. COOLLEY (Vermilion). Isn't it possible it will benefit Kansas in the same way?

GOV. ALLEN Oh, yes, I think it will develop this in my judgment; it will develop the possibilities of some men, young men who have been educated at agricultural colleges and who have been going to Canada. It will interest them in staying in Kansas and staying in Illinois. It is the state endeavoring to take care of its own interests.

Mr. MOORE (Macon). Governor Allen, you spoke of the absentee landlord; you say there are several classes of them; how are you going to distinguish between the classes when you put your scheme into operation?

GOV. ALLEN. All we are seeking to do is to put the aid of the state behind the state and she is to buy the farms from the men who are willing to sell them.

Mr. MOORE (Macon). You do not intend to compel anybody to sell?

GOV. ALLEN. Not at all.

Mr. GALE (Knox). You were speaking of the possibilities of the revenue laws and taxation in this line and you make some reference to the classification of property; I want to ask you whether you think the classification of property would be apt to injure the farmer?

GOV. ALLEN. Most assuredly it would benefit him. That would apply to the country as well as to the city. In a good many of the great cities some land speculator goes and buys a lot that he does not intend to improve. He wants simply to keep it long enough for somebody across the street to improve his land, he is just going to follow along, and if you give the state the power to classify property for taxation so if I build a building on this property and this land speculator does not intend to improve his property, then take from my building a part of the cost of the construction in order that this man who holds his land for the unearned value that comes from his speculative desire may pay relatively higher taxes. Do not penalize the man who wants to build. (Applause.)

Mr. JOHNSON (Henry). Do you think a state that makes some provision for extending aid to a person who wishes to buy a farm and live on the land is taking a step outside of the government functions, or in other words, if an action of this kind is outside the province of the state?

GOV. ALLEN. We are always doing that, it seems to me. We have made so many advances outside of that which was according to the notions of our ancestors, outside the functions of government. We are constantly coming to the opinion that you have got to help some time for the pur-

pose of protecting the state certain individuals, you have got to protect them, and we have been passing laws, as civilization has grown, to protect the man who needs a little protection. Otherwise the man who is aggressive and needs none gets more than he really needs.

Mr. IRELAND (Woodford). Governor Allen, according to your plan as I get it, this commission would examine the prospective buyers and select them?

GOV. ALLEN. Yes. Our amendment will most expressly provide that the applicant must meet certain standard regulations. They must have good health, good credit for honesty, they must have something more to recommend them than that they want state aid. The countries that have used this, have had standardized systems of examinations. They do not take every man who comes. He has to be a good risk.

Mr. IRELAND (Woodford). I would just like to ask you one more question: If in your opinion you think that class of man needs more help than he has now?

GOV. ALLEN. I think we have a great class in this country who would go upon the land and become farmers if they had some encouragement, men who have not yet acquired a credit or competency, but have a taste for going upon the farm. They will make a living somewhere else, of course. This is not a concern we have for them altogether. It is a concern which we have for the state and our land, and it is perfectly apparent that at the present price of land we are not going to be able to get the land back into the hands of farmers without some state aid. Every nation that has gone into this process of seeking to get a re-distribution of land has come to that conclusion. Every nation is doing this. The menace is more in America than any of the other nations. Why? It is easy to buy land in America. There is a lot of it. This is not socialism, not paternalism, but simply a means by which we, here in Illinois and Kansas and Iowa, may meet the competition of Canada and the other new countries.

Mr. COOLLEY (Vermilion). I do want to get that point straightened out in my mind, that is in regard to the further inflation of values of these lands. If the state makes a loan that cannot be obtained elsewhere, will not that inflate the value of these lands, necessarily?

GOV. ALLEN. You have not stated the situation exactly as it is. The state will buy the land and it resells it; it has not caused inflation of land values anywhere else. Why? Because the state buys this land upon the very careful consideration as to whether its customer can make a living on the land and meet his annual payments for it, so the state will protect itself on every piece of land it buys by that calculation.

Mr. COOLLEY (Vermilion). Will that process keep the boys on the farm?

GOV. ALLEN. I hope so. It will help. It is better than no process.

Mr. COOLLEY (Vermilion). If it will I am for it.

GOV. ALLEN. It is worth a try anyway. Now, my friends, I think we have threshed this through, and I want to talk about another thing in your Constitutional Convention which I hope will be made an article, and that is the one providing for the establishment of an industrial court.

I want to give you the background of the picture that caused its establishment in Kansas. When the coal strike came on we were in the same condition as you were in Illinois, and the only people who had coal were the operators and miners who knew this was coming. The state took over the mines and called for volunteers after we had spent a week asking the miners to go to work for the state. The conservatives wanted to go back but the radicals prevented them from doing it. I called for volunteers and the response was as fine a chapter in the citizenship of a state as I ever hope to see. In thirty-six hours eleven thousand people volunteered to come and dig coal. We took from that great offering what was necessary, mostly service men and men from colleges and universities and we went down to the field and with this group of men who had never seen a coal mine, many of them, we produced in ten days enough coal to relieve the emergency in more than 200 Kansas communities, and the strike

was of but little importance from that time on. As these boys were working producing this coal they were always wondering with their quick active minds if there was not some way to prevent a recurrence of so wasteful and tragic a thing as this coal strike had become, and so we called the legislature into special session and enacted the industrial court law. It is not a court of arbitration or conciliation, it is a court of justice. It has three men appointed with overlapping terms by the governor, and paid the same salaries as the Supreme Court judges. On the board we have two lawyers and an editor. The court does not deny to men the right of collective bargaining, but it legalizes that right. After negotiation has failed, the court steps in and forces itself as a substitute for the strike. We do not deny to any man the right to quit work. The government could not do that if it wished, but we do provide it is a conspiracy for any man to enter into an arrangement for the shortening of the production of any human necessity, and so the court does prohibit strikes, lockouts, boycotts and those evidences which have come to us. We have observed this; arbitration has failed, conciliation has failed. When you appoint a man to represent my side and one to represent your side and those agree upon an umpire, he may do one of three things. He may join one side or the other and obtain a partisan decision, or he may dicker back and forth and obtain a dog-fall, a temporary compromise which does not satisfy either side. But into the consideration of a board of arbitration of that character there never comes any concern for the rights of the public which is, generally of human necessity, the chief party in interest. It holds this fundamental weakness that a labor quarrel is a private quarrel. As a matter of fact it is generally a public calamity. So the goverment of Kansas says that society has the same right to take jurisdiction over offenses committed in the name of industrial welfare as she has in the name of social welfare. That law has been on our statute books three months. It is evenly balanced; we have no strikes in the state. Last year we had 48 strikes in the coal industry. So when they come to us and tell us we have taken away their only weapon, the strike, it has come in Kansas to be a perfectly sufficient answer to say that in every honorable quarrel you have got a much more effective weapon, that of the state government.

In the last 33 months in the bituminous coal district there were 364 strikes. These 364 strikes, 11 strikes a month, had gained for the miners in victories just $778.94. It took away from them out of their wages $2,800,000 and they have paid last year alone for the purpose of keeping up the extravagant organization which used the weapon, out of their pockets, $157,000, and today when you go into the mining districts of Kansas you find two groups, as in this body and everywhere, in the banks, in the legislature, in the store, the radicals and the conservatives. The conservatives are for us wholly and the radicals are against us, because it takes away from radicalism the need for the radical on the job at a good salary all the time. When Mr. Gompers and Mr. Howat say that they are going to call a general strike in Kansas just to prove to us that the law is no good they are joking. You cannot call a general strike in Kansas. You cannot strike in Kansas on the law. If Mr. Howat tries that, we have a bully good coal mine in the penitentiary, and we will give him a chance to do work in the mine, something he has not been doing in the last ten years, he has been working the miners. The conservative miners do not wish to have the court of industrial relation tampered with because they recognize the fact that this will be to them of the greatest benefit. Why? Because while it prevents their going upon a strike, it also prevents the coal mine from going on a strike. In Kansas we have had very indifferent mining; in the summer they only ran the mines about one day during the week, I think it is because the mining operators have found it a little more comfortable to sell coal on a market short than to build up a reserve. Now under this law with this provision, that these mines shall operate with reasonable continuity, that condition will no longer exist. So in Kansas we will begin the winter with a coal reserve instead of a coal famine, and the miners who have come to me and talked about this law have without

a single exception said, "Governor, we are satisfied with the law, we don't want to strike."

We had a political convention, a Republican convention, if that may be termed a political convention these days, and we had the entire community in, and without a single dissenting voice the Republican party of Crawford County, in the heart of the mining region, voted in favor of the Court of Industrial Relations and gave to the legislature its highest compliment for passing that law.

It is also influencing other organizations other than industrial. The other day when we were all reading there was going to be a strike among the maintenance of way employees of the railroads, that was called for the 17th of February and now it has been changed to the 27th of April, there came to my office the chairman of the strike committee of Kansas. He had his telegram from his high officer at Detroit telling him to pass the word along to the boys that the strike was called for 2 o'clock, Tuesday, April the 27th. His name was Martin, and Martin said to me, "Governor, what will happen to me if I pass this word along to my locals?" And I said, "Martin, let's sit down and read this law," and I put my fingers under the lines relating to the penalties, and I heard Martin swallow his epiglottis several times. He said, "You could fine me $1,000 and send me to the penitentiary for a year." I said, "Yes, because you are an officer of this union, and since you have taken the pains to come in and inform yourself I am inclined to think that I would give you both barrels." He said, "Can you do it?" And I said, "Why not?" He said, "I am working for an interstate business." I asked him who had been talking to him about it. I said, "Running the maintenance of way in Kansas is Kansas' business and there is no interstate permission to violate the law." I reminded him what we had done in Kansas for thirty years in the prohibition laws with men who came there to violate the liquor law. The first thing they do is to go to the Federal Government and buy the license which gives the permission of the Federal Government to come into Kansas and violate the law of the state. But we always meet these gentlemen at the border of the state and take their Federal license as prima facie evidence that they intend to violate the law, absorb their booze, confiscate their automobiles and put them in jail. He said that is true. This is the lesson, some people forget it and some governors have forgotten it in the last four or five years. But there is nothing in the state more powerful than the government of that state. (Applause.)

When Martin got that viewpoint he sent word to his national chairman that in Kansas there would be no strike. When four days ago a certain craft announced that they were going to call a general strike, they eliminated Kansas by a vote of the executive committee. They brought their case into the court of industrial relations, and just as soon as the railroads are returned to private ownership, just as soon as the owners have sufficiently identified their own property so that we can proceed, we are going to hear this case.

Another railroad craft known as the boiler wipers and oilers had a meeting last week and decided they would call a general strike in April, but that in Kansas they would leave the issue upon which they were striking to the court of industrial relations. Nebraska last week wrote an article in her constitution making it mandatory upon the next legislative assembly of Nebraska to establish a court of industrial relations. I hope you are taking a sympathetic interest in this law.

Mr. MIGHELL (Kane). I would like to ask you to state what would be the advantages of having a separate court called an industrial court; why not give the extra power to the courts of settling these industrial disputes?

GOV. ALLEN. We want a body for the purpose of investigating industrial conditions and working conditions that will have more elasticity and more time, since it will do a lot of administrative work that could not be done by an established court, so our law provides for a court of industrial relations. We have twenty cases brought by agreement, not of basic industries where the court offers itself as a board of mediation, but

when the decision on an agreed case is made they are bound just the same as if they were a basic industry. The courts could not do that. When it comes to the enforcement of the criminal causes, of course that is in the regularly established courts.

Mr. MIGHELL (Kane). How far does this extend into industries, this provision of the law?

GOV. ALLEN. Food, fuel, transportation, clothing and public utilities.

Mr. MIGHELL (Kane). If five or ten thousand men struck at one time or violated the order of this industrial court, do you think it would be a practical thing to convict and imprison five or ten thousand men at one time?

GOV. ALLEN. Well, suppose ten thousand men should violate any of your laws. It will be a little difficult to convict them all, but you would do it. I think, that is government.

Mr. MIGHELL (Kane). In other matters they do not act in unison like they do in industrial matters.

GOV. ALLEN. We passed the law with the full expectation of enforcing it, and that is what we are going to do. I think if they let ten thousand men out on a strike in Kansas we would go after the leaders to begin with and we would find who were the men responsible. We know the leadership in that district sufficently well to believe that if you take care of the leaders, the miners generally obeying the hot impulses of those who lead them for what is in it, will be orderly if you give them a chance.

Mr. MIGHELL (Kane). Let me ask you a question in regard to the selection of the court. Do you not think the workers of the state would have more confidence in the court if they had a chance to select them than if they were left to the Governor?

GOV. ALLEN. We believe that this should be a court which should exist for the things we wish to have done, and we made the court appointive by the governor for the simple reason we did not wish this court to be a political foot ball to fight over in every election. (Applause.)

Mr. MOORE (Macon). Tell us about the strike which was to take place immediately the law went into effect?

GOV. ALLEN. The court was created on Saturday and on Monday 400 miners in the bituminous district were called out on a protest strike. I sent the Attorney General down at once to make arrests and begin prosecutions under the criminal law. He brought in the seven leaders who had been concerned in calling out the strike and made them understand the purposes of the court and the leader said, "Now, Mr. Attorney General, just forget about this; give our complaints to the Governor; this was a blue Monday; we had a payday on Saturday and when we do we always have a blue Monday," and so they went back to work and that was all that that strike amounted to. After that this significant thing happened; a group of miners having a grievance came into the court for the adjustment of their grievance. That is significant. The regular procedure of those miners would have been to take that matter up with the local officers who would have gone to the district president who would go to the operators, but they went over the heads of their leaders and came voluntarily into court.

Mr. MILLS (Macon). What is the condition of the mines in Kansas, are they stripped?

GOV. ALLEN. Both kinds.

Mr. MILLS (Macon). How deep are your mines?

GOV. ALLEN. A four foot vein in Kansas is the maximum. They go down 12 to 1500 feet, some of them, and then of course we have places where it crops out and we have open or strip mining.

Mr. MILLS (Macon). How are the roofs of those deep mines supported?

GOV. ALLEN. The roofs are for the most part of clay. The clay is seamed with rock and we have to prop very carefully all the roofs.

Mr. MILLS (Macon). In operating those mines does your law provide for the precautionary measures?

GOV. ALLEN. Oh, my, yes.

Mr. MILLS (Macon). Does your law provide that only experienced men go into those deep mines?

GOV. ALLEN. Our old law which has been on the books for a long time provided the course of inspection and examination which does not allow men to go in there without being accompanied by experienced miners.

Mr. MILLS (Macon). What I was after was to get an idea of your conditions there as relating to our conditions in Illinois.

GOV. ALLEN. Our conditions are very much worse than your conditions in that our vein is thinner and we have to go after it much deeper. Our operators have difficulty in competing with yours because we have a thinner vein of coal, but we have the same rescue inspection and other laws that you have in Illinois. The Industrial Court is studying housing conditions, rescue conditions, living costs and living conditions with the intention of taking into consideration all these facts when fixing miners' wages. I am glad to say we are getting the most sympathetic cooperation of all the conservative elements of the miners down there. Mr. Howat notified us that Kansas is on the boycott list, that the miners were going to leave and he said he was going to leave, and I was optimistic enough to think he meant it for a time, but I found out that I was mistaken. Some of the radicals may leave, but the conservatives will come in and we will build up an organization of laboring men who wish to live under a sane, just and equitable atmosphere. They will come there, and the industries that wish to live in that atmosphere will also come, and unless you pass this law in Illinois we will take your industries away from you and put them in Kansas.

My friends, if moral principles do not exist in American institutions for their extension to meet an emergency of this kind then American institutions are doomed to failure, because the issue here is government and nothing but government. And unless we intend to meet honestly and fairly the challenge of this hour and say in America there is no class that shall live above the law, then we will meet with disaster in this country. (Applause.)

There was a class of men when we first established the criminal law that said it would not work. I can remember and most of you can remember when the only question that was ever asked concerning a fight was whether it was a fair fight or not. Then society said you must put up this pistol, and the man said I don't want to give up this concealed weapon, I might need it. Society said, you do not need it. There is a policeman on the corner. We would not want to go back to the conditions when disputes were settled in that personal way.

We hear a lot of different definitions of government, that it exists for liberty, freedom and equality, but John Adams told us in a very terse way the definition when he said that the high aim of government is justice. That is the high aim of every industrial controversy. Believing as we do in Anglo-Saxon institutions, then we must believe there is only one guarantor of justice, only one place for its expression, only one administrator, and that guarantor and administrator must be government. So if we will rise to meet the challenge of this spirit and say there will be government, just to all men alike, that is all that any man representing any class has a right to ask or to expect.

I thank you very much for your great patience in listening to me for two and a half hours. I find that I will have to catch my train and I am glad indeed to have had the privilege of talking to you. (Applause.)

Mr. MIGHELL (Kane). I move that the Committee do now rise and report progress.

(Motion prevailed.)

Mr. SHAW (Cass). I move, Mr. President, that we extend to Governor Allen a vote of thanks for his two able addresses this afternoon.

(Motion prevailed.)

Mr. DUNLAP (Champaign). Your Committee on Agriculture reports progress and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). I move the Convention now adjourn until next Tuesday morning at ten o'clock a. m.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention until Tuesday, March 30, A. D. 1920, at ten o'clock a. m.

TUESDAY, MARCH 30, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, the Rev. G. W. Chessman, pastor of the First Baptist Church, of Ottawa, Illinois.

THE PRESIDENT. The Journal of Thursday, March 25, 1920, was placed on the desks of the delegates at the last session held on last Friday. The Journal of that date is now subject to correction. There being no corrections proposed, the Journal of March 25, 1920, will stand approved, and it is so ordered.

Will the Secretary read a communication which is directed to the President of the Convention and was received by the President on last Friday morning?

THE SECRETARY (Reading). "Mrs. Edward C. Curtis and sons wish to thank you for the kind expressions of sympathy extended."

Whereupon the Convention proceeded upon the order of special orders of the day.

Mr. ELTING (McDonough). I ask unanimous consent to introduce three proposals.

THE PRESIDENT. There being no objection, unanimous consent is given.

Whereupon the Convention proceeded upon the further order of reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure reports the following special order of business under general orders for tomorrow, Wednesday, March 31st:

Consideration in the Committee of the Whole of the various proposals pending before the Committee on Initiative, Referendum and Recall.

Also as special order of business under general orders on Wednesday, April 7th:

The consideration of Proposal No. 232.

Report adopted.

THE PRESIDENT. The Committee on Rules and Procedure submits a further report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure suggests that under the general orders of this day, the delegates composing this Convention be and they are hereby requested to discuss in Committee of the Whole the general subject of the plan and policy to be followed in the preparation and draft of the revised Constitution, and the fundamental ideas which should control and limit the activities of this Convention.

Report adopted.

Whereupon the Convention proceeded upon the further order of reports of select committees, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. Pursuant to the resolution just adopted by the Convention, the Convention will now resolve itself into a Committee of the Whole for the purpose of discussing the resolution offered by the Committee

on Rules and Procedure. As chairman of the Committee of the Whole the Chair designates Delegate Barr, of Will county.

(Whereupon the Convention resolved itself into a Committee of the Whole, Chairman Barr presiding.)

CHAIRMAN BARR. Gentlemen, we will proceed to discuss the matter contained in the resolution, and the Chair recognizes President Woodward, of LaSalle.

PRESIDENT WOODWARD. Mr. Chairman and delegates: This Convention convened on the 6th day of January, 1920. It has been in session on some days of the week every week since that date. The first business to come before this Convention was the formulating of the rules which were to govern its proceedings. The Committee on Rules took a week or ten days in which to formulate and present to this Convention rules by which this Convention might proceed. I am of the opinion that the rules then adopted were in the main wise. Among those rules was a rule to the effect that the delegates to this Convention should have until the first day of March of this year the right and privilege of introducing proposals to be considered by the delegates to this Convention. The committee had before it the proposition of limiting the time in which to introduce proposals, and to fix the last day at a time prior to March first. The committee did not deem that suggestion to be wise and adopted March 1st as the time limit in order that the delegates might confer with their constituents and in order that all ideas, all proposals relative to the change of our fundamental laws might be presented on or before that time. It was considered by the committee that the various committees of this Convention could not formulate their reports in any final manner before all proposals were in. Practically all proposals were introduced before the first day of March, a few having been offered by unanimous consent since that time. Since the first day of March these various proposals have been under consideration by the committee. The committees have worked with care and with industry in sifting out the various proposals before them, in hearing from individuals, in hearing from various organizations interested in the work of this Convention. This sifting out process was absolutely necessary to the accomplishment of efficient work. The committee, as I say, have been busy. No time has been lost, but we are now up to a time, Mr. Chairman, when, in my judgment, final reports of some of our committees should be within a very short time forthcoming to this Convention.

The Committee on Military Affairs has already reported. I am advised that other committees to which we might say the least controversial matters have been submitted are about ready to report. Some of these reports I hope may be presented to the Convention this week in order that next week, after election day, and after the public hearing on next Wednesday, these reports may be considered by the Convention in Committee of the Whole. If some of these reports are then forthcoming the Convention will be in position to work on the floor and to sift out the proposals and finally to prepare the Constitution which is to be submitted to a vote of the people.

Over 340 proposals have already been offered. It has been a subject of some criticism that many of these proposals are legislative in their nature. When I assumed the chair as presiding officer of this Convention I stated to this Convention in substance that I hoped that the instrument which would be produced by this Convention would be a concise, short document. I expressed the hope that this great body of conservative men would produce a document which would be a model of a State's Constitution for all of the States of the Union. The more I have come in contact with the delegates of this Convention, the more I have discussed questions with them, the more I am impressed by the notion that this Convention will produce a document which will be a model of Constitution making.

I believe that this Convention will produce a document which will contain fundamentals only, and it is fundamentals only with which we should be conversant, and which we should consider in this Convention.

I hope therefore that the committees of this Convention in their reports will consider seriously and will eliminate all possible matters which are

legislative in their character. I say I hope that we may produce a document which contains fundamentals. Stated another way, it is probably easier to conceive the matters in a negative manner. I do not believe that this Convention is wise enough, I do not believe the delegates to this Convention individually are wise enough to contemplate the social, economic and political questions which will arise within the next 25 or within the next 50 years. And it must be remembered, gentlemen, that we are writing a document, not for the next two years, not for the next ten years, but for an indefinite time. We should plant ourselves, in my judgment, at least 25 years from now in the consideration of every proposal which comes before us, and should answer the question, "Can we say definitely that this proposition will be as true 25 years from now or 50 years from now as it is today?" Unless we can confidently answer that question in the affirmative, in my judgment such a proposal should be rejected as containing legislative matters. None of us is wise enough, I apprehend to say, that any social or any economic question which comes before this Convention can be solved by us at this time in such a way that that solution should endure, because those questions depend upon society, depend upon the fluctuations of thought, depend upon the ebb and flow of social forces, and social forces are fluid.

The fundamentals, which in my judgment should control may be outlined as containing all those essentials which history has shown to be necessary in the protection of life, liberty and property; the freedom of speech, of the press, of religious worship, of the enactment of laws, and the prohibition of the enactment of laws which have been shown by history to be detrimental to the person as an individual. In other words, the fundamentals in our bill of rights, we should separate the departments and activities of our government as they are separated now, into three distinct departments—legislative, executive and the judicial—and make these departments separate but co-ordinate. We should so construct our legislative department in order that the people may rule through representatives chosen by the people. The construction of the legislative department is one of the most difficult problems which will come before this Convention. There are certain prohibitions in our present legislative article against legislative activity. These prohibitions, many of them, must be continued. There are certain other clauses in our legislative article which are legislative in nature and which should be considered carefully as to whether or not they should be continued.

The executive article should in my judgment be based upon the idea of responsibility in the section of our laws. The judicial department is one of the most difficult to reconstruct. We have had many ideas and many suggestions made as to the reconstruction of that department, but the principle which should pervade the consideration of that department is clear, namely, to provide a scheme by which justice may be administered expeditiously. When we have organized our three departments, when we have provided a means by which the people may be protected in their fundamental rights we will have produced a Constitution under which Illinois may grow and develop, under which the legislature may from time to time meet the changing social, economic and political ideas which may be in the ascendant at the particular time at which those ideas arise.

I cannot more than attempt merely to outline the general scheme of Constitution making. I would get away from the model of the voluminous Constitutions of many of our Western States. I would go back to the ideal embodied in the construction of our Federal Constitution, namely, a skeleton or an outline of the powers and functions of government with proper precautions and proper limitations of the rights of the individual. (Applause.)

CHAIRMAN BARR. Gentlemen, you must appreciate that this is a very important matter for the consideration of this committee. It is of course the outlining of the very policy and the standard of procedure that the Convention shall follow from now on, and I trust it will receive the fullest discussion on the part of the members of the Convention and of this committee.

Mr. LILL (St. Clair). I am glad this matter was brought before the Convention today. The fact is, I have felt a long time that this matter should have been brought up before we got into our real work. I find the committees are drifting. We are practically headless here, each committee has its own idea as to general constitutional government. I think the first question which any Convention of this sort must decide is as to whether it wants a short Constitution or a long one.

Now, gentlemen, we want a short Constitution. If we want a short Constitution I don't think that our labors will be very long. However, if we want a long Constitution I think we will be here for months. If we want to draw up the sort of Constitution they have in the Western States we will be here until next summer, perhaps over next summer, but I am very glad this matter has been brought up; I have repeatedly expressed my views on this subject. I am strictly a short Constitution man. I personally do not see why all this legislation should be in a Constitution. I do not think the Constitution needs more than the boundaries; the State government of course must be provided for, and the bill of rights, and there is really not very much more to the Constitution except perhaps some limits as to the creation of indebtedness, but outside of that I do not see why a Constitution requires much at all. I feel that the legislature ought to be given a great deal of power; the fundamentals of the State should be provided for and the legislature ought to be given the powers to devise laws to meet with the conditions as they arise.

CHAIRMAN BARR. Gentlemen, the matter is open for general discussion.

Mr. FIFER (McLean). Mr. Chairman, it seems to me that the very able address of our worthy President was well timed, for the hour has come in the life of this Convention when things must begin to crystallize into something tangible and effective.

Now, the great disturbing question, it seems to me, in the work of this Convention is as to the powers that shall be granted to the legislative branch of our State government, and in discussing those questions if we keep close to the fundamental principles of free government as it exists in the several States of the Union, we cannot go very far wrong. Fundamentally, the object of all Constitutions is to preserve life, liberty and property.

Now, all men will agree as to the safeguards that shall be thrown around our lives, our liberties, and on those questions there will be in my judgment but little controversy. As to those questions all the citizens of Illinois stand on an equality and you will find will be practically for the same thing; but when it comes to property, one man may have one species of property and your neighbor may have entirely a different species of property and therefore different opinions will arise, different interests are at stake, and as a result I think you will find as we approach the heel of this Convention that that question will be the storm center of our work here.

Now, it is a familiar principle in American government that all just powers reside with the people. This Convention can abolish the Constitution and if the people adopt what they do, have no Constitution and refer the whole thing back to the people en masse. If a murder is committed, you can call the people together en masse in Chicago or Springfield or anywhere and all who come there could hear the evidence and have a vote upon the guilt or innocence of the accused, and so that would be judicial. So with the executive department and so with the work of passing laws. Now, we are not going to do that. We will make a Constitution that will divide all the powers that the people have in their original capacity into three departments. The legislative, that comes first, because the very beginning is the making of laws; second, the executive department which has to execute the laws, and third, the judicial department which department is to interpret the laws. I take it so far as the executive department is concerned we will have but little controversy. The Governor of Illinois, under the present Constitution is clothed with greater powers, I believe, than any other Governor in any of the other States in the Union; our judicial de-

partment is not different from all the other judicial departments of the several States.

Now, getting down to the legislative department, there is going to arise the controversy, if we have any, in formulating a Constitution. Now, it is frequently said in the public press and in speeches from the stump and discussed everywhere, and it has been said here, that we must not in the proposed Constitution which we are to submit include legislative matters. We all agree as to that. Nobody disputes that, but the difficult question is to determine that nice distinction that always arises as to what should be submitted to the legislature and what should be included in the Constitution. We cannot determine that. For myself, I agree with our worthy President and say that I am in favor of a short, concise and crisp instrument that will leave the legislative department with all the powers that are necessary to carry out the objects of a legislature, but my friends, we are not willing to create a legislative department and cast upon them unbridled, unlimited power. The Supreme Court of this State, and so far as my observation goes, the Supreme Courts of all the States, have said that a Constitution is simply a legislative enactment by the whole people. We are converted as it were into a legislature. We call it a constitutional body, and so we are, but we are to create a legislative department and cast upon that body all the legislative power that the people themselves have acting in their original capacity; we cannot give it all to them without any bridle, without any halter and without any restrictions.

Now, where shall the restrictions be placed, and that is the difficult question that will arise when we come to formulate this Constitution. Now, for one, I am not willing to create a legislative department and cast upon that all the legislative power that resides with the people without some restrictions, and therefore our instrument is called an instrument of limitations; we give to the legislative department all the legislative power that the people have, but along with it we place certain restrictions upon the legislature, and say, "Thus far, gentlemen, and no further shall you go." And I think such restrictions are wise, especially so far as property rights are concerned. No legistlaive body would ever enact any law that would endanger the life and liberty of our people, because we are all in the same boat together when it comes to those things and we would not infringe in the slightest degree or endanger any man's life or his liberty, but when it comes to property, that is a different proposition. It was argued in the Federal Constitution that men estimated property above liberty. It was said that man in the tribal state could not accumulate property, there was no law to protect it. Gouverneur Morris, one of the greatest intellects of that period and a member of the Federal Constitution Convention and who ranked in ability along with Hamilton and Madison, argued that property, that mankind always had placed property even above liberty. Possibly it was because it was in more danger from time to time by laws and inconsiderate legislation, and Gouverneur Morris, if my recollection serves me correctly, was from Pennsylvania, and he was at the head of the Committee on Style and Phraseology, and it is said that he wrote every word of the present Federal Constitution, and no better instrument, no greater Constitution was ever penned by mortal man.

Now, gentlemen, of course we cannot decide here, it is impossible for us to decide each question that is before this Convention by respective proposals that we have in hand just what to do, but we can outline a general policy, and as the President has said, a principle by which we will abide, and that is to make a short, crisp, concise instrument to submit to the people, that we will not indulge in any legislation and yet at the same time we will put on hold-back straps enough so that the legislature cannot run away with the property and the interests of the people of this State. (Applause.)

Mr. DAVIS (Cook). Mr. Chairman and delegates: In my judgment the Committee on Rules and Procedure has made a distinct contribution in suggesting that the morning be taken up in discussing a plan of action for this Convention, primarily because the committees are getting ready to

present their reports, but Mr. Chairman, in my judgment there is another good reason why at this particular time a morning is to be set aside for discussing the question of constitution making. Only about a week ago there appeared before us an American whose name shall go down into history as one who on three successive occasions has been the leader of one of the dominant political parties of our nation; a man whose personal charms and whose talents have drawn to him hundreds of thousands of people. This American, great in his own sphere urged upon this Convention a line of procedure which in my judgment would not only be fatal to the making of the Constitution of the State of Illinois, but fatal to the American conception of constitutional and republican form of government. He appeared before us the other day, the man that I believe him to be, a sincere moralist, a man thoroughly interested in the highest possible standard of individual and public morals, and because he has appeared, and on all occasions does appear in that capacity, and because the foundations of his political arguments are based upon morality and religion, Mr. Chairman, it makes him a dangerous advocate of fallacious governmental theories. With that sort of a foundation, there are those people who take it for granted that in order to establish that standard of public and individual morality we must choose the avenue of governmental functioning which is suggested by him. I say this is indeed the hour for discussing Constitution making and I only regret my own limitations to properly answer the argument of this great American.

May I recall to your minds that at the opening of his statement after paying a glorious tribute to the State of his birth, and after satisfying us of his intense interest in the future of the State, he proceeded to discuss the relations between man and man in established society or state, and found fault with the results of those relations. He started off with the prodigal son and he urged upon this Convention the importance of reforming those who have fallen into evil ways. Who is there that would dare to disagree that it is not the duty of the government of the State of Illinois to concern itself with those who because of their misconception of duty or because of environment have broken and violated the laws of man and God? And what was his conclusion, gentlemen of the Convention? He would have us write into the Constitution a separation of the classes of criminals; he would have us write into the Constitution that religion is to be taught to those behind the bars in order that they may be reformed after they leave the bars; he would have us deal along concrete lines with a matter which I say, Mr. Chairman, is one to be left to the good judgment and the wisdom of our legislative and judicial bodies of the days to come.

He proceeded to point out further that in the relations which economic and commercial conditions have established, there are those who take advantage of those particular conditions which have been created and he called attention to the fact that the middleman was a necessary evil, and he spoke about cooperation as a means of curbing this evil. May I venture the suggestion that this distinguished gentleman did not dare to state what was in his mind when he spoke of cooperation. Did he mean voluntary cooperation as the free exercise of the judgment of every man who lives in this land? No, my friends, he had in mind cooperation established and maintained by government itself in violation of the constitutional principles of freedom of action and pursuit of life and happiness.

And he spoke about the profiteer, and he would have us write into the Constitution provisions which would make it possible for the executive and the legislative branches of government to step into the lives of a great number of individuals and say to them that in this land by a constitutional provision there shall be a limitation to one's ambition and to one's desire to rise to certain heights by honest means, and do you remember, my friends, how he left that subject and went to another and took a great deal of time in dwelling upon the theme and principle that in this great nation the people ought to have what they want? And who can find fault with that, provided that statement carries with it the qualifications which we

as Americans have subscribed to from the first days of our existence as a nation? The people shall have what they want, provided in getting that they do not infringe upon the rights of other men who are part of this great nation. And when we talk about the rights of the minority, and the rights of individuals he does not propose to protect those rights by the fundamental document which we are called upon to make.

Well was it said by our own great statesman of Illinois, Governor Fifer, when he said that it matters little how far we go into detail, just so we understand and perpetuate the principles of the bill of rights; what does the bill of rights mean? Does it mean that the people shall at all times have what they want? No, it means they shall have what they want provided in getting that they do not infringe upon the rights of the minority, indeed upon the rights of a single individual; and beginning with the fallacy that the people shall have what they want, without qualifying it in any way, this great American urged upon us the adoption of the principle of the Initiative and Referendum, that the majority may rule ruthlessly ignoring the rights of the minority, and he went far enough to suggest to us that the principle of the initiative and the possibilities of its being the means of expressing popular will may go far enough to affect the constitutional provisions of our State, affect the very document which the people themselves through us shall adopt for the government of the people of this State.

Indeed, this is the right time for us to understand just what our Convention is, it is the right time to take counsel with each other and come to an understanding, comprehension and realization of the responsibility which is ours. The sovereign right of the people to govern themselves has not been surrendered by calling this Convention together; the principle of representative government is given a forceful expression when a Constitutional Convention is called together in order that such Convention, as the representative of the people, may reduce to writing an understanding of the people of the limitations which the people themselves desire to place upon themselves, in order to perpetuate the fundamental rights of human existence, as we understand it in our land, and so we are giving another expression to representative form of government, asking of ourselves the extent to which people want to limit their own rights, the extent to which people want to place a limitation upon the power which they have to govern themselves. I say, as long as I am given the honor of speaking for my brother Americans, I conceive them to say to me that in writing the fundamental law they want me to incorporate a proposition which says the people shall have what they want, provided in getting it they do not deprive other people of our State of their fundamental rights as American citizens. It is not altogether a question of brevity of the document. Let us bear in mind that the people through us want in the first instance a declaration of principles of the American form of government as it was incorporated in the bill of rights, there are few changes indeed which we may want to put into that article of the Constitution, except elucidation and interpretation here and there as experience has indicated the necessity of such change.

And then we may go on further and declare that as a result of experience the people want a distinction between the three departments of government, and well was it said here on this floor that the most important of the three is the legislative department, because it is through the existence of the legislative department that the people from time to time choose those who shall make laws for the government of all, and there, too, Mr. Chairman, the people do not want to foreclose themselves through our action as it may be approved by them, and so in framing that particular article of our Constitution we want to make certain that we do not tie the hands of the legislature, not tie them along the lines which our great Commoner suggested, compel them to pass laws which may make it possible for the majority to deprive the minority of their rights, nor do we want to compel the legislature by any enactments to give expression to the principle

in which he believes, with all the honesty of his soul, that the government should extend out and step into the lines of activities which heretofore have belonged to individuals. He advocated here the incorporation into the Constitution of the State of Illinois of a compulsory law, if you please, which would give the State the right and the opportunity to own railroads and to own all the public utilities which heretofore have been considered of a quasi-municipal character, and which have been developed by private industry and capital, and he here advocated a principle which in my judgment is not along the lines of the best thought. The hands of the legislature should be free, for when he advocates incorporating into the Constitution certain principles of government which the future may consider to be unsound, I say he is tieing the hands of the people rather than giving them a greater amount of freedom, and so in framing the article on legislative department of our government we want to be certain that we remove the restrictions which have been found in the past to have tied the hands of the representatives of the people who gather here once in two years to give expression to the voice of the people. And when we come to the executive and the judicial, it is more a matter of form and a matter of procedure provided we retain the fundamental principles of the separation of the departments.

As a delegate to this Convention I want to express my thanks for the wise action of the Committee on Rules which has thrown this matter open for our discussion, and I want to express a hope that we shall see the guidance of the future as well as the experience of the past in framing a document which shall be so elastic and so broad as to permit in the future the freest possible expression of the people through the representative form of government which is ours. (Applause.)

Mr. BRANDON (Kane). It is my desire to address myself to this question not so much from the philosophical standpoint as from a practical standpoint.

I have the honor to represent a committee which is one of those described by our President this morning, as on the verge of a report, and I think I can safely say that that committee is hesitating in the completion of its final report due to a question of policy that if possible this Convention should determine before that or any other committee similarly situated is asked to report.

The other day the Committee on Military Affairs reported and the Committee of the Whole expressed itself as satisfied with a number of provisions that I at least concluded were purely statutory, and as that discussion progressed I reached the conclusion that the policy of this Convention was to include in the new Constitution such statutory provisions as were in the Constitution of 1870, even though it refused to go further and include further statutory matters.

Since that time I have heard from some delegates expressions which lead me to believe possibly that the Convention might see fit to change its position. When we went out before the people in our campaigns as delegates we heard on every hand, particularly from the legal profession, "Leave well enough alone," "The less you change in this Constitution the easier it will be to secure its ratification by the people," and we have come to the conclusion that the fewer changes we make the easier it will be to get the result of this Convention ratified by the people. If we went back to them with the same Constitution that was offered to us at the outset, it would require no ratification at all, and just in proportion as we change it, just in that same proportion must the campaign for the education of the voters be waged to make them understand the changes.

Now, practically, the Committee on Education is confronted with an article of five sections, two of which I think I might safely say are clearly fundamental; one, that there should be a system of public schools where the children of the State should be educated by common funds instead of by direct taxation, and second, the provision that the State funds may not go to sectarian institutions for educational purposes. Outside of that is a great deal of statutory material. If this Convention will adopt a principle,

a policy that all statutory matter will be excluded from this new Constitution, the Committee on Education will be able to bring in a report omitting all that statutory matter and will have a logical explanation to make to the many persons in the State who have been before it seeking to retain statutory matter which is in it now, and also to satisfactorily explain to those people who will have to be disappointed because statutory matters are not added. But if this Convention does not take that position, and treats the different committees in different ways, and says to the Committee on Education, "We want you to exclude statutory matter," and then says to some other committee, "Let it in," we do not have such a satisfactory explanation to make to the people, and our task of satisfying the people is doubly difficult.

If I may be permitted, Mr. Chairman, I will cite an exact example. There came before our committee a proposal to abolish the section mentioning County Superintendents of Schools. What is that proposal? It is not even a mandate, it does not say there shall be in each county a superintendent of schools or that there shall be a county superintendent of schools at all, but it says there may be in each county a superintendent of schools, and to my mind it is practically a suggestion. There is another that provides a school officer should be barred from royalty incomes on improvements in books and so forth; to my mind there is a vicious tendency in putting that in a Constitution, because it might be desirable to amend that article hereafter; there may be some service that a teacher may render which might instill a better study of methods if the legislature could say that some certain bonus should go to some teacher for some certain development on some certain thing, but don't ask the Committee on Education to come out merely with the two sections of that article, which we know to be fundamental and constitutional and leave all the other out and subject this Constitution to the attacks of the County School Superintendents who will not understand the reason for the omission of that. If this committee could adopt a resolution declaring it as its best sense that the committees should exclude all statutory matter offered either in the Constitution of 1870 or offered in the proposals to this Convention, it would in my judgment result in the reports coming to this Convention weeks sooner than they will if the ordinary and previous policy is adhered to. (Applause.)

Mr. ELTING (McDonough). I think, Mr. Chairman, it is a very difficult matter to decide in advance whether our Constitution shall be a long or short Constitution. We have been called together for a definite purpose as the representatives of the people of this great State. How can we say in advance when a committee shall report or how a committee shall report, when that committee is composed of freemen sent here by the great commonwealth of this State? This is a deliberative assembly and time is not considered the essence of what we are to do. We are here to construct a Constitution to meet the changing conditions that have come upon us since our former Constitution was adopted. I don't see how we can decide at this time whether we will leave out statutory matters and only put in basic matters, because opinion differs very widely as to what are constitutional subjects and what are statutory enactments. For my part I think we should follow the lines of our former Constitution to a great extent. I think it is 85 per cent good, and I think by amending it to meet the changing conditions of our great commonwealth we will have accomplished a great deal. I am not inclined to pick up every new dogma that is presented, but those questions that have been tried, that have been tried for centuries and have been tried out in this country, I am in favor of retaining. I think our Constitution should preserve intact the three divisions, the executive, the legislative and the judicial, and I should suggest they should be entirely distinct and perform their functions independent of each other. As to the legislative, it is said that these bodies are omnipotent only so far as they are not limited by the Constitution and so far as power is granted to them. I would not be in favor of deciding in advance what are constitutional subjects and what are legislative subjects; I would

not want to sacrifice the principles and traditions of our country in advance. I think we should talk these matters over, discuss them with our people at home before we come to any definite conclusion upon these subjects in our committee, and afterwards in the Committee of the Whole and then by the Convention itself. The judiciary department is a very importment department of our Constitution. If our judiciary department is not properly organized and functioning properly we lose the benefit of our bill of rights, the fundamentals; somebody suggested we leave these matters to the legislature. It has been left to the legislature and in many things they refused to act and in some their actions do not meet with the general approval. My idea about the Constitution is to make it put the basic law in as far as possible, and those statutory matters that have been in the former Constitution we should leave them in so far as possible, the object being to maintain the rights of the individual, his life, his liberty and his property.

In deciding matters which are considered statutory and which are constitutional, I think those matters that are not controversial matters, there is not any question about, should go into the Constitution, whether they come under one definition or another, and then this Convention very wisely in the beginning created a committee on distinction between constitutional and legislative subjects. I am willing to wait until we hear from that committee before we decide what shall go in and what shall not go into this Constitution. I do not think we can decide whether it is to be a long Constitution or a short Constitution in advance. I am in favor of the committees working deliberately, reporting when they get ready, and then after the reports get into this Convention we will act on them together. Let us understand fully what we are doing before we submit to the people a Constitution. I might say that my idea is for the committees to recommend before we pass on it in Committee of the Whole and then after it is prepared let us scrutinize and revise, and then scrutinize the revision before we submit it to the people. I do not think the element of time is to be considered. I do not think anybody will question the honesty of any member of this Convention if it takes one year or two years to complete this work. I am satisfied the President of this Convention could have appointed two or three men in the beginning that could have prepared a Constitution in one week, but it would not have been the work of this Convention, so if it takes six months or nine months or one year to prepare a Constitution I am one that is willing to stay and to help do it. I am not in favor of rushing the thing through or making any hard or fast rules by which any members' hands will be tied in this Convention. I thank you.

Mr. MILLER (Cook). I am wondering if we could not make some progress on this matter if we could agree on a definition of what is constitutional matter and what is legislative matter. Obviously I am for conconstitutional matters only going into the Constitution. That is what we are here for, as I understand it; we are trying to make a Constitution and not to legislate. There are certain things on which we would all agree as being matters that are purely legislative. There are certain other things on which we would all agree as being matters purely constitutional. But there is also a large field on which personally I am uninstructed on whether they are legislative or constitutional matters and I wondered if we *could* not make more progress if we could agree on a definition? Inasmuch as I assume that the Committee on Rules are all in favor of not legislating, but confining ourselves to constitutional matters, I am wondering if the Committee on Rules or some of them could not suggest a definition by which we could guide ourselves. As I said I am uninstructed, and I assume there are some others like me.

Mr. MOORE (Macon). The gentleman from Cook (Miller) suggests that there be a definition of the Constitution. There is a celebrated lawyer of the United States who has defined the Constitution as a contract between the people and their government by which the government agrees not to do certain things to the people. Our Constitution is derived from experi-

ence. Some 800 years ago or thereabouts there occurred at Runnymede the first effort known in history of limiting the power of the governing. It is true that only went to the limitation of the power of the executive to control the people, but with that beginning we developed over on the other side of the water a system of government that has been pretty free, and we perpetuated it in this country by limiting the power of the executive. It was discovered on the other side that the legislature had been controlled by the executive in a way that made the laws practically nugatory and we separated the legislative from the executive department and gave freedom to the representatives of the people to speak, and we heard the people, and there were examples on the other side of the people being hung for interfering with the legislature. Later it was discovered that the judiciary had been held subject to the executive, judges had been allowed to hold office just so long as their decisions were in accord with the wishes of the executives, and judges even lost their heads for giving independent decisions; therefore we separated the judiciary from the executive and the legislative departments and we have found for 130 years that scheme has worked very well in this country. But there was another thing that came up; the executive and the legislatures, even the judiciary, are inclined to step upon the rights of the people, and we incorporated into our Constitution a bill of rights which protected the people against the encroachments of the three great departments of government.

If seems that if this Convention can adopt a Constitution that adheres to the four principles, the independent executive, an independent legislature, a fairly independent judicial department and a fairly efficient bill of rights, we shall have adopted a Constitution that ought to receive the approval of the State of Illinois, and I want to say I am not concerned as to whether the people of the State of Illinois adopt the Constitution that we suggest or not, that my vote shall always be given to the things that go to carry out the principles that are laid down in the Constitution of the United States, that have been proved by long experience and hundreds of years to be right, and let the people judge. As the Father of our country said, we do not know that anything which we do here will be approved, but so long as we get up a document that we approve we can go before the people and defend it. I want to say that there have been propositions made by distinguished people in this Convention Hall to make the judicial department of the government amenable to public opinion, to subject judges to recall, and let the people revise judicial decisions. I think that would produce chaotic conditions beyond a doubt, and there have been proposals made here that certain organizations of men shall be free from the operation of the law. If we accept any such doctrine as that we will reduce a man who works with his hands in the State of Illinois to a condition of slavery. We must see to it that every individual in the State of Ilinois has a right to work out his own career to the best of his ability without let or hindrance from any organization of men or from the government itself so long as he confines himself to legal operations, and if we undertake to abridge the rights of any citizen in favor of any other citizen we shall produce a failure, and I hope this Convention will have in mind at all times the four great cardinal principles of the government of the United States or in the making of this Constitution. (Applause.)

Mr. GREEN (Champaign). This discussion has departed considerably from the scope that was in the mind of the Committee on Rules and Procedure or as outlined by the President, but the wisdom of having provided this opportunity for free discussion has surely been proven by the limits to which this debate has extended.

The Committee on Rules and Procedure has been pressed by individual delegates from the Convention with reference to the formulation of certain plans or policies which it felt was not within its province. The President of the Convention has been beset with importunity to suggest the lines of procedure which it was felt should remain after all with the majority on the floor of this Convention Hall. There has been some confusion in the minds

of the delegates as to just where we have gotten and it really seemed to the Committee on Rules we have drifted a little away from the anchor.

This Convention is being deluged with proposals, and you perhaps receive hundreds of letters and telegrams from Sunday school organizations, clerks, farmers' organizations, labor unions, labor union organizations and one thing and another asking you to do certain things to protect them in this Constitution. Without dealing with anything in detail, it seems to me that the people of Illinois are anxious to hear an expression from this Convention that it is our understanding that government will never undertake the problems of society and that we believe that society's problems are far superior to the problems of government, and I hope we will never see the day that any man can be able to say that by paying his taxes he was supporting charitable or religious institutions, because the secret of the American system of government has rested in the fact that the government refuses to take from society its proper burdens, and society has had manifold burdens that the government was unwilling to undertake or assume. To my mind, if we can leave with society, leave upon the individual citizen the largest share of responsibility for the future success of life and morals and progress and prosperity in this country as a burden which society shall carry, and that all we do is to prevent the government from interfering with the activity of the individual so far as he does not do his fellowman any injury, we will have done a great work, not only for Ilinois but for the country.

It seems to me that is a simple observation, and that fine distinction between the problems, purposes and duties of society and the purposes, burdens, spirit and necessity of government would make our labor much more easy of accomplishment, and therefore the committee on rules, believing a discussion of these things from the floor, not with the purpose of tieing the hands of the Convention to any policy, but that we might get expressions from each individual member and come to a common understanding and get back to simple truths, namely, that we are here to protect individual rights, and we are going to try to be big enough to have no Mason and Dixon line in the interests we serve, but try to do those things which will serve the whole State; if we do that we will have really done something. (Applause.)

Mr. KERRICK (McLean). I will not try to make a speech; I simply want to obtain light if I can in some way. I was considerably interested in what was said to us and the reasons stated for this meeting by our president. I thought when he concluded, I knew the purpose for which we are now here, but as the discussion or rather the talk has proceeded I have got completely lost as to why we have this matter now under consideration. My first understanding was, and I obtained it from the remarks of our president, that notwithstanding the committee had been appointed to take charge of matters which were judged by the president to be of legislative nature rather than what we might term constitutional, had not had assigned to it all of the proposals introduced which should have been referred to the consideration of that committee. We have a committee entitled "Distinction between constitutional and legislative subjects;" as proposals were offered they came under the inspection of the president. Presumably he discovered among these proposals some of the character called legislative, or at least partaking of that character to the extent that the exercise of distinction should be applied to them, and therefore they are referred to the committee to distinguish as to whether they are legislative or constitutional in their purpose. That I suppose was a method of sorting out, of determining what was and what was not appropriate for the other committees to consider, but as we have proceeded it became evident to me that the inspection had not completely answered its purpose. I concluded that, notwithstanding this censorship, there had gotten into the other committees some proposals which should have gone to the committee on distinction between legislative and constitutional matters. That for a while was my understanding, and then later on it appeared that the meeting might be for the purpose of answering something said to us by visiting delegations. Further along it

developed that some delegation from somewhere had perhaps made a more considerable impression upon the members of this body than some other, and it disturbed the balance. Now, that impression I gathered and other impressions and I have become so confused that I do not know precisely the purpose for which this meeting is being carried on, and if there is anyone who can give me some light on it I would be glad to get it.

Mr. DUNLAP (Champaign). I am very much interested in what has been said here this morning by those who occupied the floor, but I am somewhat in the same condition of mind that the last speaker has indicated he is, and that is, where are we getting by this discussion? Is there anything that has been said here in this discussion that we did not understand when we came here as a delegation to this Convention? Have there been any principles advanced that were not known to all the delegates to this Convention? Why are we in Convention assembled? In my opinion, it is because of too much legislative matter or statutory matter in the Constitution of 1870, and also that there are too many limitations placed upon the legislature. When all is said and done, when these reports are brought in from the committees, we are up against this proposition of deciding what shall go into this Constitution; this constitution in my opinion will be just as good and no better than the minds of the delegates of this Convention will make it, because we come here with more or less prejudice from our environment or the interests of our business, or our ideas, and when we have formulated this Constitution it will represent in a large measure the consensus of opinion as threshed out on the floor of these questions in which we are individually and collectively interested.

For myself I have not been confused by the hearings that have been held here. I have been enlightened; I have been glad to hear the viewpoints of these different gentlemen who have appeared before this Convention. I am glad to hear from and read these communications that come to us from different groups and individual citizens of this State. It is what they are entitled to. This constitution goes back to them for their ratification or their rejection, and by getting these communications, by hearing these gentlemen representing these different interests we are able to formulate our judgment, and that judgment I believe will be of as high character as ever formulated in a Constitutional Convention gathered in any other State of this Union.

We cannot go back to the forms of government of the old world for our examples, but we can take the best that comes to us from our different states of this Union, and if we will limit the matter that goes into this Constitution, the statutory matter to such a small degree as is possible to reach results, and if we will grant to the legislature authority to do those things which in the judgment of this Convention some action will be asked upon in the next fifty years, in my opinion we will have formulated a Constitution which will meet the requirements. I do not believe there is a delegate upon this floor who really believes that nothing by constitutional and fundamental matters should go in this Constitution. I know we expressed that opinion, but when we come to act upon it we will find that if we are attorneys we want some particular form of courts established in this State and that we want it to go into the Constitution because we do not want the legislature to act upon it, and so in that way we want to put legislative matter into the Constitution of this State.

There is nothing in the judicial department in my opinion but would be enacted by the legislature, and yet we are, and I think wisely, going to put into this Constitution things that relate to the organization of our courts and just exactly what kind of courts we shall have, how they shall proceed, and that is legislative matter largely.

Now, so it is in other departments, and when you come to the legislature, why, of necessity we will have to decide of what that legislature shall consist and how the representatives of the people are to be elected, and we are naturally putting into the legislative part of the Constitution considerably more matter than we will be obliged to put into the executive or judicial department of the Constitution, and so I say this talk about fundamentals going

into the Constitution is to be observed just as far as it is possible for us to observe, but for us, to understand to say in Committee of the Whole or in Convention that we will not put any legislative matter into this Constitution it seems to me is impractical, and furthermore I believe if we would pass any limiting proposition upon our committees here, understanding the matter as they do, and their duties as they must understand them, preventing them from bringing into this Convention reports that seem to them for the best interests of this State, and when you say the interests of the State I mean the people—they should bring their report in with that viewpoint—I believe that matters of class legislation should be eliminated if there are such in this Constitution, be kept out of the Constitution we formulate, and any proposition, I do not care from what source it may come, that has not the interest of the whole people ought to be rejected.

That is the way I believe about these matters, that when the reports come in from the different committees, let us scrutinize and discuss them from the standpoint of eliminating just as much legislative matter as possible and at the same time let us not try to put as much restriction in this Constitution as we can. It is just as bad to put too much legislation in this Constitution, it is just as bad in my opinion to go to the other extreme and say we will restrict the legislature in its power to enact legislation that the people may in their wisdom wish to enact in the next fifty years. We have got to have a view point that looks into the future, and any proposals that come in that have for their benefit, I do not care whether it is bankers or farmers, I do not care whether it is labor or what it may be that comes in here that wants to benefit their particular class of business or individual interests, they should be excluded, and that is the principle upon which I am a delegate to this Constitution Convention, and I think if we can get down to the matter of what is just and right we do not need any constitutional lawyers to tell us what shall go into this Constitution, because one man's idea of right and justice is just as good as another man's impressions or mind upon that particular subject. I think that the best we can do is to put into the Constitution as little legislative matter as is possible and put as few restrictions upon what the legislature may do in the future and confine ourselves otherwise to simply the fundamentals that are necessary to make our Constitution perfect.

I do not believe we can reach any decision here by a motion that will do us any particular good. Perhaps the discussion will have done us good. I have been interested in it and I have contributed this to it, and I do not think I have contributed very much. I have only contributed my own individual opinion, but I believe I think like the rest, that there shall be two or three amendments that ought to go into this Constitution and then we will have a pretty good Constitution. I thought that when I came here, and I found that the rest of the delegates thought the same thing, but when we look at the number of proposals, 350, I think, I believe that each individual must have had his own particular things that he wanted to put in there, and when we got them together there were 350 of them. But I think we will find that it will be like it is in the legislature, with 12 or 1400 bills in the session, they finally get through with 100 or 200 at the outside. We will not put all these proposals in the Constitution, of course, but I think the people should be heard upon these questions. (Applause.)

Mr. REVELL (Cook). I have been highly interested in this session this morning; it has been of distinct value to me. We have heard seven or eight men upon the floor and there may be others whose trend of mind I would like to have and which might be of value to us all. I therefore make a motion that we adjourn until two o'clock this afternoon, and then proceed.

Mr. GALE (Knox). I rise to a question of privilege. I desire to ask in view of the rules of this Convention, which require that no comittee meeting shall be held during the session of the Convention or the Committee of the Whole without the consent of the Committee of the Whole or in the Convention as the case may be, I ask consent of the Committee of the Whole on behalf of the Revenue Committee to be excused from the session this afternoon, because we have arranged for a hearing before the Revenue

Committee at which the Honorable Nels P. Haugen, the leading tax commissioner of the United States, has agreed to address the Revenue Committee, and Mr. Haugen cannot be with us at any other time, and I feel it is so important that we ask to be excused from the afternoon session of the Committee of the Whole.

Mr. LINDLY (Bond). As there are a lot of men to be heard I ask that the hour be made four o'clock instead of two o'clock and the committees can meet in the meantinme.

CHAIRMAN BARR. Suppose we made it four-thirty.

Mr. REVELL (Cook). I so amend the motion.

(Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole until 4:30 P. M. Tuesday, March 30, 1920.

4:30 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Barr presiding.

CHAIRMAN BARR. Gentlemen, the time for convening of the Committee of the Whole after recess has arrived and we will proceed with the discussion of the matter before the committee.

We are glad to have such further discussion as the members may desire to enter into carried on at this time, and incidentally, if I may suggest, that you make your remarks as complete but as brief as the time would require.

Mr. HAMILL (Cook). It occurred to me, Mr. Chairman and gentlemen of the Committee, that some of the speakers this morning took rather too seriously perhaps some things that have been said from our platform last week. I refer to the remarks made by that distinguished gentleman who is an advocate of the mathematical impossibility of a double standard of value and the biological impossibility of a single standard of morals. I think that perhaps it was not recognized that he is one of the greatest humorists of this country. I have before me what was distributed as his speech before the Nebraska Convention, in which he says: "I was told that, when they were writing the Constitution of the State of China they asked an American for an American Constitution that they might take as a model. The Constitution of Oklahoma had recently been written and the American to whom the request was made recommended the Oklahoma Constitution, and, I am informed the Constitution of Oklahoma became the model upon which the State of China wrote their Constitution." I submit, gentlemen, that no one, unless he had an exaggerated sense of humor could have incorporated that into a speech.

I make that introduction, Mr. Chairman, because it seems to point the way that this Convention should move. We do not want in Illinois the Oklahoma Constitution or anything like that, I think we should agree. I am heartily in sympathy with the sentiment expressed this morning that we should confine ourselves to the fundamental law. I think it is wise we have had this discussion because I think the sentiment and the expressions from the floor will be a guide to the committees and they will comprehend that the sentiment of this Convention is against incorporating that which is distinctly statutory matter.

I recognize, as every member of the Convention does, that there is a debateable field, that there is room for difference of opinion among sincere men as to whether a given provision is statutory or purely constitutional, but I believe that where that doubt arises we will be wise when we resolve the doubt against the provision. I profess the belief, Mr. Chairman and gentlemen of the committee, that every provision we put into the Constitution is a limitation and that limitations should be confined to those which long experience has proved to be necessary. I believe that a republican or a democratic government will succeed so far as it is elastic so it can respond to the needs of the day, being just so elastic as it can be without being subject to whim and caprice. I do not suppose there is a man in this Convention who departs from the fundamental doctrine of republican govern-

ment as laid down by Mr. Bryan the other day. We all believe in the rule of the majority, some basing it on one ground and some on antoher. Those great men who prepared the Constitution under which the federal government has prospered these many years derived their notions of democracy from some French philosophy of the 18th century. That philosophy, I take it gentlemen, is no longer held in the high esteem it was then. I take it that few people who are students of philosophy give to the doctrine of natural rights that exalted position our forbears did, but the fact remains that institutions founded upon that philosophy have all worked; they have accomplished that which it was supposed and expected they would accomplish and that is the test.

I believe a sound basis, and perhaps the soundest basis, for democratic institutions can be found in this: As I read history it seems to me that I find that every government that has fallen has fallen from external aggression or weakness within, and ordinarily where the cause has been external aggression that has succeeded only because of the weakness within, and as I try to find some common quality of the weakness from within which has resulted in the fall it seems to me I find this, that inevitably political power has been vested in hands where physical power was not; now, gentlemen, the minute you have one group of men with political power and another group of men with physical power you have an unstable political equilibrium which is as sure to result in fall as unstable equilibrium in physics, and so a democracy I think finds its ultimate basis in this, that unless you put political power where physical power is you have an unstable political equilibrium. It is true in some instances you have physical power in the hands of a minority, but never where you have equality in education, in character and in opportunity to acquire property. Where you are considering equals your physical power resides with the majority and where physical power is political power must go, and that I take it is the real foundation for democratic government, and I get back—I believe we are all in entire accord with the doctrine laid down by the gentleman I called the humorist, that the rule of the majority lies at the foundation of our institutions. We need only therefore so to frame our fundamental rule that the majority may in the long run without undue delay express its well considered and mature judgment in law, and if we so frame our institutions I believe we may look forward with confidence to their long endurance, and if we do not so frame them we may well believe we are legislating for the day and not for the future. I thank you. (Applause.)

Mr. WALL (Pulaski). A great many years ago a justice of the Supreme Court, about a year before he died, wrote his will. It consisted of four lines. In that will he gave his name, the name of his devisees, a description of his property consisting of $100,000 worth of property, the tenure that it should be held by the legatees and he affixed his name to it; he was a great lawyer. He had this within three lines. How? By using exactly the proper words which when interpreted in their natural ordinary and accepted meaning conveyed legitimately this property in a lawful manner, and he knew his associates on the bench if they survived him and it ever got up to them to construe this will would be able to by reading it ascertain his intentions, know his purposes and to pronounce it a good and valid instrument, conveying his property to the natural objects of his bounty and thus he desired to have it.

And so we were called upon this morning to express our views as to the length of the Constitution we are trying to make. It is true, as has been suggested by some, that we cannot tell whether it will be a long or a short Constitution, and it is true that we cannot tell how many times or pages it may have, whether ten pages or two hundred pages. For my part, expressing myself as most of the members have and agreeing with them completely, I am in favor of as short a Constitution as possible. I am in favor of a ten page Constitution if we can make it so, and I fully believe a ten page Constitution would be a much better Constitution than a one hundred page Constitution. Some of us have asked the question why this discussion, why this adoption of the report of the Committee on Rules this morning?

What is the purpose of discussing these questions now? Mr. Chairman, I have learned more by listening to the discussion this morning than I think I ever learned in any two hours in my life's history. It is a splendid thing to meet now before we go any further and honestly reason together, consulting with one another and publicly expressing our views on whether or not we want a long or short Constitution, discussing whether we want to deal entirely in fundamentals or whether we want any legislation in the Constitution. I am not in favor of legislation in the Constitution. I do not regard it as legislation when you simply limit the power of the legislature upon the fundamentls in the Constitution. It would be legislation if you went further and said in addition to limiting the legislature's power that the laws carrying out those powers should be put into the Constitution.

It was said by the delegate from McLean (Fifer) that the fundamental principles in every Constitution consisted cheifly in the protection of life, liberty and property. That is true. Life, the dearest thing should first be protected; liberty the ever enduring thing in a republic, is the next thing to be considered; and property, which is a continuing and enduring thing, is the next dearest thing to the heart of the people, and it is the third thing to be considered. And when those three things are considered fundamentally we have performed our duty as Constitution makers, except that under the present Constitution it becomes necessary to make some expansions and some flexibility, so to speak, to meet the changing conditions of the last fifty years. Here we are with the same engine operating a much larger machine than we had fifty years ago, the same horse power moving a greater variey of wheels, which needs additional power. Complaint has come, especially from the great city of Chicago that then had 250,000 people, but now has three millions, that they are circumscribed in their activities; that they need more constitutional power or that more power shall be conferred by the Constitution directly or indirectly so that they may operate more successfully to their prosperity and advantage.

I think it is well we meet here and exchange views that we may know that the various proposals coming before the various committees and being considered and discussed, that we may know substantially what action the Convention, which is the captain of its own soul and the arbiter of its own destiny, will finally take when those matters come upon the floor of the Convention. I cannot see how any delegate can question either the usefulness of the discussion or the purposes of the discussion, and in defense of this resolution which was adopted unanimously this morning, I think it was a wise and a good thing to do.

Mr. MICHAELSON (Cook). Is there danger, Mr. Chairman, in the minds of the delegates of this Convention that they may have strayed from prescribed limits and that their ideas of what the new Constitution should contain are wandering on unsurveyed ground? Have we arrived at that stage in our efforts and our deliberations in behalf of the people of Illinois that it becomes necessary to warn us that if a speaker is presented to this Convention that we may listen but pay no heed? Is the Committee on Rules and Procedure apprehensive and alarmed that it has been stated to this Convention and laid down as a fundamental principle of popular government that it is the right of the people to have what they want in government, and that in having what they want they make mistakes, but that the people have the right to make their own mistakes, and any departure from fundamental principles is a step backward toward arbitrary power? I think it is time that the delegates to this Convention take counsel with each other and by expressing our faith and trust in the people decide not whether it shall be a long or short Constitution but that it shall be written by the people themselves as they want it.

Let me ask again some of the questions that seem to have caused such an agitation. If the city wants to own its own water works, why should not the city own its own water works? If the city wants to own its own lighting system why should it not? If it wants to own its own street car lines why not? Who shall say that the people cannot decide what they

themselves desire and who alive today has such confidence in his wisdom as to take from the people of tomorrow the right to make their government to suit their needs? Is not this the time, Mr. Chairman, to decide on a policy of submission of the Constitution? The delegates may remember that during a discussion attendant on adoption of the rules I submitted an amendment to the effect that 90 days before the election at which the new Constitution shall be voted upon a copy of the new Constitution, together with the minority and majority briefs shall be mailed to every resident voter in the State of Illinois. I explained to you at that time the reason for the introduction of that amendment to the rules. It was voted down. Subsequent to that action I introduced a proposal, number 286, providing precisely for those same provisions. That proposal has been referred to the committee on submission which has not as yet been appointed. It seems to me, Mr. Chairman, that the surest way within our means to create that bond of faith and trust so necessary between this Convention and the people is to go on record in this regard and in the same breath give notice to concentrated power and organized wealth that this Constitution is to be written by and for the people of the State of Illinois. I thank you. (Applause.)

Mr. GALE (Knox). I have come to the conclusion, Mr. Chairman, that every delegate to this Convention has come here with the idea in his mind that he would stand for a Constitution of fundamentals only, and yet Mr. Chairman, I think that this discussion today has been a good thing, because while there has been the idea in our minds the proposals presented to us and the arguments made before us in the Committee of the Whole and various committees have proceeded very largely upon the theory, I want the Constitution to be fundamental except where my own interests are concerned, and then I want something definite written into the Constitution which shall protect me and mine.

A frequent recurrence to the fundamental principles of government is absolutely essential to the preservation of the blessings of civil liberty. Those are among the great words of the Constitution, and Mr. Chairman, so it seems to be frequent recurrence to the principles upon which we were elected, and upon which we came here is absolutely necessary to the preservation of our own minds from confusion, and the document which we shall draw from the darkness of unintelligible phrases, or from the tieing up of the legislature by details which will not be working a year after we have finished our job.

It seems to me, Mr. Chairman, that we must therefore recur frequently to those fundamental principles, that we will not be led astray, that we must make up our minds that if we are going to write a Constitution which shall endure for fifty years or shall endure for ten years, we will know that the people have a right to be governed through their representatives in the way they want to be governed and will not necessarily tie the hands of their representatives.

I am not afraid of a legislature elected by the people of Illinois. I am afraid of a Constitution which would tie that legislature so it could not do what the people need, and I say to you Mr. Chairman, that if it is the idea of this Convention that we can wrap the people of the State of Illinois up in cotton wool for the next one hundred years we had better go home now. We have to make a Constitution which will recognize by the generality of its phraseology that the people have a right to rule through their duly elected representatives. They have the right to make mistakes if they want to make them, to realize if those mistakes are made by the legislature they can quickly be corrected, to realize that it is the business of a written Constitution to place limits beyond which neither the legislature, nor the majority of the people can go in trampling upon individual rights. It is the essence of Americanism and it is a distinct contribution to the government which America has made, that she has guarded not only against the forceful action of an autocracy or oligarchy, but against the forceful action of majorities themselves; that she has said in her written Constitution, "Thus far shalt thou go and no further," and she has prepared a great department of her government, the judiciary, which shall see to it that no persons, no sets of

individuals, no majority even, shall transcend the limits of that Constitution, and to that end the executive, legislative and judiciary must draw their power from the same source, to-wit, the people. And, therefore, Mr. Chairman, we have provided a republican form of government with its three departments of government and have taken care of individual rights in our bill of rights, we come pretty nearly having drawn the sort of Constitution that ought to be submitted to the people of Illinois, and Mr. Chairman, I hope that from now to the end of our deliberations the delegates will counsel not only with each other, but with their own souls, to make sure they keep definitely before them that one guiding light which can lead us to the sort of Constitution to which our State is entitled. (Applause.)

Mr. SHANAHAN (Cook). Mr. Chairman and members of the Convention: I doubt if the Committee on Rules and Procedure this morning, when they made this report, realized how wide a scope this debate would take. However, I think it has had a good effect notwithstanding that was not the intention of the Committee on Rules when it made its report.

The President of the Convention presented to the Convention this morning the details as to what had been done so far as regarding the organization of the Convention and the appointment of committees and the procedure, and he well said that twelve weeks have been spent by this Convention in the introduction of proposals, some committee meetings and a number of meetings of the Committee of the Whole in listening to people from this State and from other states who desired to tell this Convention what ought to be done in the way of framing a new Constitution for the State of Illinois.

Now, I desire to say at this time that we ought to get down to the practical workings of a legislative body. There are perhaps some of the ablest representatives of the Illinois Bar as members of this Convention; there are some of the ablest and most successful business men in the State of Illinois members of this Convention; there are some of the ablest representatives of the farming communities and the live stock interests, of the horticultural interests and of the labor interests as members of this Convention, and I believe that the time has now come for the delegates to this Convention to debate among themselves and not listen and debate with outsiders. I believe we have had all the information that is necessary to have regarding the subjects that will come before this Convention, and it is about time that we would close having outsiders appear before the Convention and let the members get down to business. Today has been the first day and the first time that there has been a wide discussion between the members of the Convention regarding the work of the Convention and I hope from now on that a program will be laid out whereby the membership of the Convention can go to work and debate this problem on the floor of this Convention, and the only way that can be done is for the committees of this Convention to begin to respect their work.

One of the delegates in speaking this morning said that it might be well for this Convention to determine whether they wanted only fundamentals in the Constitution, and how much legislation ought to go in, and whether that part that is now legislative ought to be eliminated from the new document. That is entirely a matter for each individual committee to decide for itself in its own particular work and not for the Convention at this time. Each and every committee of this Convention is sovereign and supreme while it has its work before it, and it should decide what it wants done and report that to the Convention, and it is for the Convention to say whether or not it is fundamental or legislative. I hope from now on we will not have any more of these field days in this Convention, that we will have field days among ourselves and begin to debate the real propositions, and I hope that beginning tomorrow all the committees of this Convention will get down to actual work with the idea that next week they will begin to report their work to the Convention so the Convention can go into the Committee of the Whole and debate among themselves as to the work of the various committees. It has come to a point where the presiding officer is being called upon daily and being asked, "When shall we get down to actual

works," I am tired of coming here and having a half hour session and then attending two committee meetings a week of about two hours duration and then sitting around and listening to outside speakers and going home on Thursday and Friday. You cannot get down to actual work until you get the reports in from your committees and then the whole Convention can debate that subject.

Now, gentlemen, that was the reason for the report of the committee this morning. It was not intended to have this wide debate, although great good has come from this wide debate, because the various members now realize that every members of this Convention has been thinking about the work and is ready to take hold and do his part, and I say to you now that I hope that all members of the Convention will take hold of the work just as actively as they possibly can. Unfortunately we will be unable next Tuesday, a week from Tuesday, and two weeks from Tuesday, on account of elections in various parts of the State, to have a session on that day so we will be compelled to have sessions on Wednesday, Thursday and Friday in order to keep up with the work. I want to say to you that the longer that this Convention drags out the worse it will be for the document you turn out. If we hang around here all spring and summer working on this the people will get tired of it. We can turn in and in six weeks prepare a document that we can present to the people just as well as if we sat here for one year. It only means that the delegates must get down to actual work, and I hope they will do it beginning with tomorrow morning. (Applause.)

Mr. McEWEN (Cook.) I have listened with a great deal of interest and received a great deal of instruction here today. I am not in entire accord with the inference or conclusion which has been argued by some, that mere fundamentals will suffice in the Illinois Constitution. They did not suffice in the Constitution of 1870. There is much legislative matter in that Constitution, which, if we remove from our document will be met with violent protest. For instance, in the committee on distinction between Constitutional and legislative questions—I regret the chairman and the vice-chairman are not here to present some of the difficulties under which we have labored—we have had before us the subject of article 13 relative to warehouses. The proposition of one delegate, that it be stricken out and of another that it be retained, and when we come to hear the arguments and learn the facts we are told that away back about 1870 and prior thereto there was much complaint regarding the warehouse men, particularaly of the City of Chicago, and that there was agitation among the various producers and shippers and dealers in the City of Chicago against the warehouse men to the end this article might be written in the Constitution and the article was written which defined the warehouse men, which made certain regulations concerning his business, which provided a rule of construction for the courts to follow that contained a mandate to the legislature that it should proceed with other legislation, and that article was the result of that agitation.

The first time a case came before the Supreme Court concerning that article the Supreme Court of this State said it was a purely legislative article, but it was constitutional and it was the law and the courts sustained the contention that was made in that case, that the State had the right of regulation of its warehouses. Following that decision the warehouse men came to the legislature and secured a law which permitted them to store their own grain in their own warehouses in common with the grain of the public and provided a system of inspection to be provided by the State to see to it that what was done inside the warehouse was not derogatory to the interests of the public. It was argued then and before this committee that warehouse men took advantage of the situation of control of the grain and they took out the better quality of wheat or other grain and saved that for themselves to the injury of the general public, and that they got from three to five cents a bushel more for that better grade which they had skinned out from the general volume of trade. Immediately a test case was made, brought about by the dealers on the Chicago Board of Trade; a test was made of that law, and it was determined by the Supreme Court

that the law was unconstitutional and was in derogation of this particular article 13. The warehouse men have been before this committee and they argued that they should be free to secure such legislation as the legislature might choose to give them. They have contended they are up against the handicap when they are brought in court, that there they find a rule of construction that it shall be construed liberally for the protection of the producer and shipper; on the other hand the members of the Board of Trade and dealers say if you take that article out of the Constitution you will find the legislature will permit the doing of the very thing that was sought to be cured and which has been prevented all of these years; so we will have to consider not only the subject of basic principle involved in the Constitution, but we will have to consider legislative matters; it may be necessary to initiate legislation; we may have to go beyond a mere basic principle and set a restraint upon the legislature. We may have to declare a public policy in some matter.

I do not think we can at the outset start in the construction of this Constitution and say that this Constitution shall be four feet long, three feet high and two feet thick, that we can set any limit. We may say we will proceed along certain lines, but say we are going to be circumscribed by certain rules at the outset, I would say it would be like trying to make a seven foot man sleep in a six foot bed and you don't know what the length of the man will be when you are building the best bed. I have been greatly interested to see how much alarm and consternation seems to have been produced by the presence of a distinguished American here one day last week. I can say, "Let the galled jade wince, my withers are unrun;" the said gentlemen did not overturn my position or suspend my judgment. He said many things that were interesting, he said many things which few could make successful issue, but I don't know that an occasion of this kind is appropriate to take issue with that speaker or with a dozen other speakers who have appeared here, but because he talked of some matters that were said to be legislative it was made an excuse for a general discussion of the gentlemen's remarks, and the reply to his suggestion of trust the people seems to be stated succinctly, instead of that, "Trust the legislature." We trust the legislature to a certain extent, but you cannot go to the people and say the answer to that claim that you should be trusted is that we must trust the legislature.

We have all heard in discussions that have run through this Convention and outside by delegates that it is desirable in the view of many downstate people that Chicago should be limited, and the legislature we propose to trust shall be a legislature based upon a limited representation of Chicago. I cannot conceive the logic of the argument, but I would suggest that we ought not to be terrorized, we ought not to be fearsome and have our souls affrighted because an eloquent gentlemen comes here; possibly some of the gentlemen do not fear so much for themselves, having confidence in their virility and strength, but fear for the strength of mind of some of the other delegates to this Convention. I could imagine a stranger who might have been sitting in the gallery from some foreign clime who understood our language and, looking down upon this Convention and noting what occured last week, he would be led to conclude that some distinguished American of unquestioned patriotism had been here, that a man of the highest personal character and with splendid ideas and matchless eloquence, with a following running into hundreds of thousands of Americans, as stated here today, that that man in some way or another had benumbed the intellects and overturned the wills and dethroned the reason of many of the delegates, and it is necessary for some powerful mind and strong arm to draw them back to consciousness. I cannot help but think that this man might think it required some force, something like the passage in Paradise Lost, that some great destroying angle had thrown down those from their high estate and they lay benumber sleeping on this great morass of evil; when it seemed as thought that situation could not be remedied Lucifer appears and with powerful voice coming through the vasty deep says, "Awake, arise, or be forever fallen." Did you feel the impulse, or that some Prince Charming

who when he found the Sleeping Beauty, charmed and hypnotised by the wand of some magician, that he spoke the words that would raise them from their lethargy. That stranger might have thought that we needed some sort of medicine or treatment. I do not believe that we do or that we will be carried off our feet by the arguments or eloquence of any man. I should be very much mortified to think that any of us would suspend our reason or set aside our judgment just simply because some man had expressed his sincere sentiments, and we all agree they were his sincere sentiments; I think this discussion probably will clear up some of our views, and I want to at this time and have taken this occasion to say that I am not in full accord with the limitations mentioned by some of the speakers, and I am sure that you and many of you will feel if we are to make a practical Constitution that will be a Constitution of the people, that it has to be a covenant with the people; it has to be a Constitution that has some trust in the people as well as a trust in the legislature. (Applause.)

Mr. CORLETT (Will). Mr. Chairman. The president of this Convention this morning very well and forcibly expressed the principle of limiting the Constitution to matters and subjects purely of a constitutional nature, and I take this occasion to say that I heartily agree with that principle.

Of course in this connection the first question is, what is the distinction between constitutional and legislative subjects? I did not rise, Mr. Chairman, to attempt to give a definition. However, I say this; for fifty years we have lived under the present Constitution and everything that the legislature could do within the limits of that Constitution has been a legislative subject, and things that the legislature could not do within the limits of that Constitution I regard as constitutional subjects. Irrespective of whether they should or should not be done, they are matters that cannot be said to be legislative. Now, in the Constitution, as has been said, the powers of government are divided into three departments, legislative, executive and judicial and the powers of government are exercised by those three departments. Now, if it is not desired to further limit the legislature than it is already limited, then the provisions of the present Constitution are ample; if it is desired to give the legislature more power on certain branches of the government then of course that is a constitutional matter and must receive attention here.

In the last twenty years there have been 1,500 proposals for the amendment of the State Constitutions of the states of this nation, of which 900 have been adopted, and if we include in the Constitution that we are now framing the entire statutes of the State of Illinois we will be required to amend that Constitution more frequently than if we do not; in other words, if statutory subjects are to be incorporated into the Constitution that this Convention frames then we must provide for a very easy method of amending the Constitution; just in proportion as the Constitution contains legislative matter it is weak in this, that it becomes necessary to change it every morning before breakfast. The tendency for the last quarter of a century has been to write legislative matter into the Constitutions that have been adopted. That has been growing for the last 20 years, and I think increasing, and secondly, we have such a large number of amendments from year to year submitted in the several states of the union. If legislation is avoided in this Constitution we can increase the stability of the Constitution and thereby the strength of the State government by making it difficult to amend, but if legislation is to be included in it and we are to act upon every subject that someone thinks the legislature should have acted upon, but has failed to act upon, then we have got to leave it so it can be amended without the slightest difficulty, and as often as the ever changing conditions require us to amend just as changing conditions require the legislature to repeal some of the statutes which are enacted to serve the purposes for which they were enacted at that time only to find that in a few years changing conditions require their repeal, and so, gentlemen of the Convention, I submit that if we are to have a strong and stable State government it is absolutely essential to keep out of the Constitution legislative matter just as far as it is humanly

possible to do it, because as you write into your Constitution legislation you create the absolute necessity of leaving your Constitution open to amendments at very frequent intervals. I thank you. (Applause.)

Mr. DOVE (Selby). Mr. Chairman: I assume one of the purposes of this discussion is to devise some means of expediting the work of the Convention and secondly, that the purpose of this discussion is to afford an opportunity to every member of this Convention to express himself upon some of the fundamental principles which he believes might aid in the future procedure of the work of this body.

With much that has already been said I am in hearty accord. With some of the things that have been said I am obliged to differ. For instance, this morning it was stated, or rather it was given utterance, that the delegate then speaking was not concerned with what the people thought or the action that the people would take after our work as a Convention had terminated. I am deeply interested, gentlemen, in the action of the people after our work and labor is ended, and all my labors on the committees of which I have the honor to be a member and all my work in this Convention will be that the ultimate document that will be submitted to the people of this State will be one that is worthy of the ratification and adoption by the people.

I have heard a great deal said about undermining representative government; I do not believe there is a delegate here who entertains a serious purpose of in any way abolishing representative government. Some of the delegates have paid their respects to the great Commoner who honored this Convention last Wednesday by his presence and his address. No words of mine are needed to strengthen any of the arguments or statements that he here made. His sincerity, his honesty of purpose, his ability, his Christian morality are not questioned. He has an abiding faith in the people. He realizes that this government is one that is not founded upon race, but it is one that is founded upon an idea and principle, and that principle is that all governments derives its just power from the consent of the governed, and to those principles I dare say we all most heartily subscribe. Many of his principles are the same, permit me to call your attention, are the same principles that the progressive party in 1912 adopted as their principles, and I firmly believe when generations yet unborn shall have forgotten what we do here today and shall have forgotten there was ever a Constitutional Convention in 1920 in the State of Illinois, that the generations yet unborn will hold in respectful veneration that great Commoner, the great orator, that man who has endeared himself to millions of American people who has such an abiding faith in their judgment and their integrity, and in their honesty of purpose.

Again, gentlemen, I have heard a great deal of discussion here today with reference to separating legislative from constitutional subjects. It seems to me that this discussion has been worth while. It brings to our attention methods by which we should proceed, and it occurs to me the only way by which legislative from constitutional subjects can finally be determined will be after the reports of the various committees are made to this body and then opportunity will be offered to every delegate here to express himself and to say whether those sections that are so reported shall be written into the Constitution or not. I dare say that if there is one single sentence that is legislative and should not go into this Constitution it will be discovered in this body before it goes very far.

Speaking for the committee of which I have the honor to be chairman, and I think I can speak for the members, permit me to say that the chairman and the committee will do everything in their power to expediate the work of the Convention and to that end may I report that a sub-committee has been appointed and as soon as that sub-committee reports to the committee itself, which will be within a very few days, the entire committee will have a report to make to this body for its adoption or rejection. (Applause.)

It seems to me that the only way that we can make progress is for the various chairmen to hasten the work of their committees, but I would not allow this opportunity to go without calling the attention of the committee

to one matter that appears in the debates of March 17th. The Convention at that time had under discussion the advisability of continuing in session each day of the week other than Sunday and Monday, and the statement was made there that this Convention was costing the people of the State of Illinois $1,000 every day in the week. That is an error. The Convention here, I am informed, the overhead expenses of the Convention are a trifle less than $3,000 per week, so it is not costing the State of Illinois quite $500 per day for every working day in the week, whether the Convention is in session or not, and may I also call the attention of the committee further to the fact that the gentlemen who sponsored this resolution and insisted so strenuously that the Convention should be in session five days of the week were conspicuous and most conspicuous last Friday by their absence. I thank you. (Applause.)

Mr. SNEED (Williamson.) Gentlemen of the Convention: I have sat intensely interested in this discussion which has taken place on the floor of this Convention. While it has not been my opportunity to be present at every session of this Convention, it has been my great desire that we might hasten the work of this Convention as far as it is possible to do so. As I have listened to the discussion this morning and this afternoon relative to the length of the Constitution, or rather relative to the length it should be when submitted to the people, I can recall the argument of several delegates at the first convening of this Convention. Many of us were of the opinion at that time and I still think that the Constitution to be submitted to the people of Illinois should be one of basic fundamentals and fundamentals only. To my mind, gentlemen of the Convention, it is not within the provinec of this body to frame an instrument to be submitted to the people which will cover all matters which will concern the people. In my opinion this Convention should so legislate that it will be possible for the legislature or the General Assembly in the years to come to enact legislation that will take care of matters that should not be placed in this Constitution.

We come here from various districts, made up of different people, of different opinions and of different environments; some of us came here expecting great things; others came here expecting nothing, only duty. To my mind we have had sufficient time to get acquainted; we have had sufficient time to at least learn something about one another that has created within us a greater respect for this great delegation, and we have throughout the twelve weeks not only learned much about one another, but we have learned a great deal about the desire of the people whom we have the honor to represent.

I feel, gentlemen, that it is within the province of the Rules and Procedure Committee to call at any time upon the chairman of each committee at the convening of this Convention and to ask the progress of that committee, and it seems to me that that would be a good thing to do; that it would in many respects hasten the work of this Convention, if upon the convening of this Convention every morning the chairman would call upon the chairman of each committee relative to the progress that it had made; it seems to me that it would in many respects help the members of those committees to feel more interested and to get down to business. I have the honor to be chairman of one committee, and I want to say to this Convention that, beginning with tomorrow afternoon, that committee proposes to hear the men who have prepared and submitted to this Convention their proposals which have been referred to that committee, and after hearing them we expect to appoint our sub-committee and in a week to be ready to report to this Convention. I cannot help but feel somewhat concerned at some of the discussion here this afternoon. One of the delegates, I think the delegate from McLean, said he was not concerned as to what would be submitted to the people of the State of Illinois; another delegate has said that time was not an essential to the work of this Convention. Gentlemen, I disagree with those sentiments. I for one, am much concerned with this Convention getting down to business and to act as expeditiously as possible, and terminate the work of this Convention and submit to the people for their approval or

rejection our work here. Some one said this morning that organizations, interests, different individuals and so on might be interested. Gentlemen of this Convention, there is only one great interest that should be the concern of the delegates who represent the people of the State of Illinois in this Convention, and in my humble opinion that interest should be the interest of the people as a whole of the great State of Illinois. (Applause.)

Mr. SHANAHAN (Cook). I move that the Committee now rise and report progress.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). I move we now adjourn.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Wednesday, March 31, 1920, at ten o'clock A. M.

WEDNESDAY, MARCH 31, 1920.

10:00 o'Clock A. M.

The Convention convened pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplin.

THE PRESIDENT. The Journal of Friday March 26, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Friday, March 26, 1920, will stand approved.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The committee to edit the proceedings of the Convention has left with the President a report which the President submits to the Convention.

REPORT OF COMMITTEE.

Your committee to edit the proceedings of the Convention begs leave to submit the following report:

The committee recommends that a period of ten days be allowed the delegates for delivery to the chairman of this committee, of corrected copy of the printed proceedings as laid upon the desks, and recommends that, in the event no corrections are suggested by members within that length of time, it shall be the duty of the committee to complete the proof reading under its own supervision.

And your committee further recommends that the policy of the convention be to permit corrections in language only to an extent which will not change the substance of the statement as made on the floor.

Respectfully submitted,

ELAM L. CLARKE, *Chairman.*
RODNEY H. BRANDON,
JOHN L. DRYER.

Report adopted.

Whereupon the Convention further proceeded upon the order of introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions.

Mr. TRAUTMANN (St. Clair). Mr. President, I would like to ask to refer back to the introduction of proposals, and I would like to ask unanimous consent to introduce a proposal this morning.

THE PRESIDENT. The delegate from St. Clair, Mr. Trautmann, asks unanimous consent to introduce a proposal.

Mr. CARLSTROM (Mercer). Mr. President, while I was absent yesterday some of the gentlemen of the Convention evidently slipped a few over on me. (Laughter). I don't want to be considered as a quitter. Mr. Trautmann came to me very kindly and asked me to withhold objection this morning, and I shall be glad to do so.

Whereupon the Convention further proceeded upon the order of introduction of proposals, motions and resolutions, unfinished business, and general orders of the day.

THE PRESIDENT. On yesterday the Convention adopted a resolution for the consideration in Committee of the Whole today of the various proposals pending before the Committee on Initiative, Referendum and Recall. The Convention will now resolve itself into a Committee of the Whole for the purpose of a hearing upon those propositions. Delegate Dove will please take the chair as Chairman of the Committee of the Whole.

(Whereupon the Convention resolved itself into a committee of the Whole, Mr. Dove (Shelby) presiding.)

CHAIRMAN DOVE. In response to our invitation, gentlemen of the committee, four gentlemen are here to discuss with us the inadvisability of incorporating the initiative and referendum into the new Constitution of Illinois. Each of these gentlemen have signified their willingness and desire to submit themselves to questioning by the committee after the conclusion of their address.

Permit me first to introduce to you Dr. Eugene Davenport, Dean of the Agricultural College of our State University. Dr. Davenport.

Dr. DAVENPORT. Mr. Chairman, and members of the Convention:

It is a pleasure, as well as an honor, to be invited to speak before a body like this upon any question which concerns it.

I want to make myself clear in what I shall say this morning concerning this particular issue, and I shall speak as a farmer. I am not speaking for the farmers. I have not that authority, but I have always been a farmer. I have spent about a half of my life on the farm; a little bit more than half of my life has been spent in the University of Illinois in this great State, and I am soon to return to my farm, which happens to be, I am sorroy to say, in Michigan, to sort of balance things up and end where I began, with the soil. Therefore what I shall say with reference to this question is from the farmer's viewpoint, in which my own interest lies.

I want to speak first from the standpoint of the recall, beginning the discussion at that end of the situation.

Mr. WOLFF (Cook). Mr. Chairman, does the Professor understand he is to talk about the recall? Will that question be discussed?

CHAIRMAN DOVE. There have been no proposals introduced along that line. I don't know what action the sub-committee of our committee might take here, but I believe it would be inadvisable to limit Dean Davenport's remarks at this time. Continue, Dean.

Dr. DAVENPORT. I shall be brief upon that point, and I shall use for the illustration of my position the recall of judges.

The judge upon the bench, as it seems to me, is placed there by the vote of the people because of his knowledge of the law and his power to judge the evidence. We have, for example, in the University of Illinois just now a movement among the students to enforce the honor system, and they have their own courts for ascertaining whether a student is guilty or innocent of an offense. With them there is no question of the law. It is a question of evidence. Most of the evidence is circumstantial, and it makes the lawyers on our council of administration smile sometimes when acquittals or convictions are brought in upon the evidence. That is to say, the students are not students of the laws of evidence, and neither is the general public.

I cannot conceive how a judge could be recalled purely because his decision did not please the public, when the public is not qualified in the law, has no good access to the facts, and is not an expert judge of what constitutes evidence.

My good friend, Judge Harker, tells me of a case in his own experience in which he instructed a jury in a murder trial to bring in a verdict of innocent purely upon the question of the legality of the evidence, although he believed the man guilty of murder. If the recall had taken place in that county, the judge certainly would have been recalled, and it was many years before the testimony of a dying prisoner in another State relieved the accused from the charge of murder. He had not committed the murder although all the evidence pointed that way.

My objection to the recall in general would be based upon this fact: That the general public is not informed, and cannot be informed, so that it can express an intelligent opinion about a large class of the questions that come before our courts, before our legislators, before our administrative officers.

To recall the executive of a State or of a county or of a municipality is certainly to paralyze the administration, and possibly at a time when very

much depends upon the stability of the government of that particular unit of our people.

The recall of the legislators is to take away from a representative, whom we have elected and charged with responsibility, that responsibility and place it with another.

Now, you will all agree there ought to be a means of removing an officer who betrays his trust, but my position is that that removal should itself be a matter of court proceedings, and not a matter of public vote. A way is provided for the removal of all officers, I suppose, who betray their trust and for cause, but probably there is no more solemn proceeding in our civil life than the removal of a man from an office to which he has been elected and which he has accepted, and that removal itself, it seems to me, should have all the solemnity of any other court proceeding.

So it seems to me that the whole principle of the recall does violence to the very idea of representative government in that it proposes to resubmit the qualifications of this man whom we have elected, not to a court that can judge of his acts with all the evidence, but to the court of public opinion.

My objection to the referendum lies largely at this point: That it is impossible to acquaint a population such as ours of six million people, with around a million voters, with all the facts involved, in many cases of the most important legislation, and certainly with administration and the judiciary. There are so many questions that are different when they are reduced to their fundamentals than they seem to be upon the surfact that I despair of any possible machinery to adequately inform the voters at large about the merits of the case. Many of these questions that must be settled are questions that are capable of easy befogging by some catchy phrase. You can defeat anything with a catchy phrase. I don't understand any contract that would be easier to carry out than the contract to defeat any piece of legislation under the referendum principle.

For example, one of the larger questions in education before us today is this: Shall medical and legal education be paid for by State expense, or shall the lawyers and the physicians who expect to get rich off the public by the public practice pay for their own education?

Now, there is no question in the world but public opinion and the judgment of civilized society is rapidly arriving at the conclusion that both medical and legal education have become so expensive that it is impractical to compel a young man to pay for an adequate education either in medicine or the law. If we force him to pay for that education, it would be a narrow education, and he has to get his money back the best he can. Undoubtedly we are coming to the conclusion that we have already too long taught medicine and law as private enterprises wholly, and that the time has come when we ought to teach both medicine and the law from the standpoint of the public good, and control diseases rather than cure patients, primarily, and establish law and order rather than try cases before the court.

Now, I cannot conceive how it would be possible to get that issue before all the voters of a great State like this. It seems to me it would delay by many many moons the conclusion, or several conclusions, on progressive policies of that kind, because anybody could raise the slogan that the lawyer is going to get rich off the public, let him pay for his education; and how can you go up against that kind of argument? It is not argument; it is an appeal to prejudice. It is the same argument we use to get petitions signed, and you know we can get a petition signed to hang the Governor of this State any time. People don't read petitions, but sign anything that somebody tells them is a good thing to sign. We have evidence upon that, and many many examples. My friend this morning was speaking of a case in a university not far from here in which a petition began and read properly and ended with the phrase that fifteen men named in the petition should be shot at sunrise. Not only half the students of the university signed it, but every one of the fifteen men signed it, (Laughter) showing how little you can depend upon the principle of appeal upon issues of consequence.

There is difficulty, and always will be, in getting out a representative vote. It is always true in the election of officers, especially among the

farmers. The farmers don't like to go and vote too often. They are busy in the corn fields, tending pigs, and that sort of thing. They don't want to be called to an election every few days to pass upon and review a mass of large and intricate questions that already have been passed upon by smaller bodies that can have the opportunity to get all the facts.

You know it is an old principle, well recognized, that ten men are not ten times as wise as one man, and a hundred men are not often ten times as wise as ten men, and that when we get a large body of people, they cannot discuss. That body becomes a mob, and only the Lord knows what that mob may do.

The initiative, it seems to me, is less full of peril than either the referendum or the recall, for this reason: That it places the burden of responsibility from the outset. That is to say, it attempts to get something through. If it fails, we are right back where we were in the beginning. If it succeeds, why then it has accomplished a piece of legislation.

The referendum, on the other hand, seeks to undo something which has already been done deliberately, and it seems to me it is far more dangerous than the initiative, and even so it seems to me that the whole scheme of initiative, referendum and recall is but an attempt to lay a democracy over on top of a republic.

Our recognized form of government is that of a republican government. We are a large country, with a numerous population, a hundred millions now, and we shall have two hundred millions pretty soon. These people are all races and conditions and interests, a conglomerate mass.

We can select out of this mass, or let them select, a certain few who may represent these various branches. That is tolerably safe, and thereby we can get a government of representatives eleceted by responsible majorities. That, it seems to me, is the very essence of the government our fathers gave us. It is not an autocracy upon the one hand; it is not a democracy upon the other; and the attemp to lay this system of repeated voting by the masses of people upon all sorts of questions is only an attempt to lay democracy on top of this, or rather at the roots of our republic.

I think I must tell a remark made by my friend Dr. Beuyoucos, of Michigan, who spent the last year of Dr. Hopkins' life with him in Greece. He left that country years ago for this country, and he said to me—I think it will betray no confidence—he said, "You know the Greeks always were great philosophers and great in argumentation. They were always interested in big public affairs," and he said,"Today in Athens in any alley in the city you can find a bunch of people, both educated and uneducated, discussing all sorts of public questions." Although Greece was a democracy and so intelligent, and you would suppose if a democracy could succeed anywhere it would succeed there, yet Greece has gone to pot.

In spite of this democracy, in spite of the fact of everybody insisting upon discussing all sorts of questions, the democracy in Greece has failed. If it failed there, as intelligent as those people were and as much given as they were nationally to the discussion of abstract questions, how can it succeed with us, a very much larger country, a very much more mixed population, and furthermore, a country given over to enterprise more than the Greeks? We want to do things; we want to cultivate our land; we want to run our railroads; we want to do business; and speaking as a farmer at least, I want to do my voting and have it done with. I don't want, as an individual, to be asked to pass upon the merits of this and that legislation, the facts of which I am not able to determine without a vast amount of work, and even with that amount of work, I am not more fitted to determine the facts than the representatives elected for that purpose, and if I come to a conclusion I have to do it upon my own processes. I cannot get with a very large number of people to discuss the matter; and in all these matters, it seems to me, we are confused at this point: We are likely to think that the most of our affairs can be settled by public opinion. It seems to me that is not true.

I have great confidence in public opinion. I would just as soon trust public opinion upon the question whether the sun will rise tomorrow morn-

ing as to trust the vote of this body. I think the public opinion on that point is just as good as our courts or the legislature or the Constitutional Convention, because the public has had experience. It knows something about the force of gravity. It knows a lot of things about many questions, but there are many things which the public does not know and cannot know.

When we meet our classes in the University, our classes in agriculture, we don't put it to a vote of the class whether corn should be cultivated deep or shallow in this State. We turn to the facts. We don't put the question of the proper policy of Illinois in the treatment of soils up to a vote. The legislature appropriated some money for the conducting of an elaborate soil survey and the discovery of some facts upon which trained men could give advice. Trained men, I say. Dr. Hopkins, for example, was a man trained in that line, and all of the world, and all the State knows of his work, and a large part of the State is following his advice, because his advice is worth more than my own or that of most men on this particular subject for he had knowledge about that.

It seems to me that we do not sufficiently avail ourselves of the peculiar knowledge and the special knowledge and judgment of men who are trained in these various lines.

What kind of a president should we have in a university? Should he be an advertising manager or should he be a statesman? What should his training be? Now, with all due respect to the farmers, of whom I am one, and all deans of colleges of agriculture, of whom I am one, and all teachers of agriculture, and my brethren here who are editors of agricultural papers, I am bound to maintain that the training which a man acquires through the field of agriculture is not the training which fits him for the presidency of a great university. Neither is the training which a man would get in the field of history the proper training for a president, because the historian is looking backward all the time. Economics, for example, is a subject that not only runs far into the past, but it also projects itself into the future, and of all the subjects with which I am acquainted, economics is the best subject in which a man might be trained to fit him the most for the presidency by reason of his training. Just so, as I see it, with all due respect to other men in other professions, the profession of the law is the profession *par excellence* for the training of men for legislative and judicial positions.

I am not at all sure that a farmer might not be just as good a Governor as a lawyer, but I am sure we have to have in our legislative bodies, and certainly in our courts, the information, the facts and the knowledge gained by the members of the legal profession.

I don't see how we can take these questions out of the hands of men who are trained in those lines of work and out of bodies like this, elected from all the corners of the State, a body so small they can get together and talk matters over, I don't see how we can submit these large and important questions to popular vote without very great danger indeed.

My general objections then would be, first, that we are asking too much of our government if we attempt to take it in our own hands as a democracy at this, that or the other juncture, whenever somebody might want it done.

Another is that we would be throwing into the hands of irresponsible minorities the opportunity to heckle our regularly constituted authorities, our legislative bodies, keep them eternally stirred up and keep the public stirred up. I say the irresponsible minorities, because it seems to me, as I stated, that when you get a lineup on any question, the majority is fairly homogenous, it is somewhere near alike, but the minority is commonly made up, not of a single body, but of a group of more or less differing people, and so, if the minority is going to have access to the decision of the majority, why, it will be not simply one but a half a dozen different issues raised, each one capable of stirring the whole thing up.

I think I must speak upon the experience I had some years ago in another country to the south of us.

In South America, where I happened to be living for a time, they said to me, "Who is President up in Estados Unidos?" I said, "Mr. Cleveland is President." I am speaking of this to show the different views of people toward these matters. They said, "Is he a good man; did you vote for him?" I said, "No; Mr. Cleveland is a Democrat, and I have been a Republican, and we had a good man, too." "Well," they said, "are there more Democrats than Republicans?" "Well," I said, "there seemed to be that time." They said, "Are they going to leave him in?"

"Yes."

"Is he the head of the army or the navy?"

"Both."

"Army and navy of Democrats?"

"No."

"What, a Republican army and navy fight for a Democrat President?"

"Surely."

There is no solution of that mystery. Those people didn't have at that time—that was a number of years ago—they didn't have at that time in their minds the responsibility of the minority to submit to a thing once decided, but kept eternally at it, and they talked a good deal about revolutions, and they asked, "Wouldn't it be possible for a bunch of Republicans to get together, raid the White House some morning, and drive out the President?"

Now, that is not giving a fair illustration of what this thing would mean, but it approaches it, in my opinion.

Our safety depends in putting questions up to vote upon which the public can be informed. Now, the public can be informed about men. I think I know Brother Dunlap over there pretty well. I have lived close to him for twenty-five years. He has never stolen any chickens from anybody; he has never been a bad man in the neighborhood. Both in Savoy and down here he is proved and tried. I would trust him with legislative matters long before I would trust myself. I don't know that I would ask his opinion about a matter of animal husbandry. He is an orchardist.

But it seems to me, if we are to succeed with a suitable and well established governmental procedure, it will be by availing ourselves of all the talent we have in the country provided by elected representatives, and availing ourselves also of that greatest of all privileges, which is close conference between a few people, and refraining from injuring the proceedings by eternally tinkering at the matter through the opinion of minorities that have not been able to prevail.

Now, about the rights of the minorities. It occurs to me that the minority has a complete right to convert all the world if it can to its way of thinking, and I think if the people who believe in the initiative and referendum are able to convince the public that they are right, they ought to have their day in court and we ought to try it.

I am bound to believe, and we all are bound to believe that even a republic such as ours will muddle along in many things and make more mistakes in practice than an autocratic form of government, but we correct our mistakes as we make them, and quantitatively we don't make such great mistakes as autocracies make, but I fear if we ever go into the experience of recalling from our republican representatives, I mean now our representatives elected in a republic such as ours, recalling from them at our own sweet will and at the call of a very small minority the duty we have laid upon them and they have accepted, we shall pay dearly for it, because we will be holding elections upon all sorts of questions, about which the public is not informed. We will be open to all sorts of slanders and antipathies which are so easily born against a perfectly good issue, and I fear we will so disgust the public with repeated elections about things which they don't understand, that the time will speedily come when they will fight against everything on general principles. That is what I should do. I haven't the time to go into the intricacies of all the questions that come up, and I should vote against them as a matter of safety.

I believe we are fairly safe with a majority opinion about all of our public matters. I don't believe we are safe if we divide responsibility with that majority I believe we are safe in trusting our affairs to our representatives if we don't divide responsibility with them; and if after they have come to a conclusion, and we try it out, they have the opportunity to change their mind, and if not, we have constantly recurring elections, we elect new representatives to this room every few months, and if we make up our minds, right or wrong, that these men have not done best for us, we can elect other men. There is no law over in our country whereby Senator Dunlap must come here to represent us in the Senate; there is no such law on the statute books; you wouldn't put one in the Constitution. There is nobody appoints Senator Dunlap to represent us. We elect him because we are satisfied with what he does, and he is willing to do the job.

I doubt very seriously whether you could get such men as I see before me, as I have known for twenty-five years in this building, whether they would consent to run, to stand all the trouble of an election and all the harassments of a public office, if they understood after the very best service they could render their work was to be subjected to the review of the uninformed public opinion.

I thank you very kindly, gentlemen, for this opportunity.

Mr. WOLFF (Cook). May I ask the gentleman a few questions, Mr. Chairman? Did I understand you to say, Professor, that the referendum is the greater of the two evils, when you talk about the initiative and the referendum?

Dr. DAVENPORT. I should think so.

Mr. WOLFF (Cook). Would you do away with the referendum that the Constitution provides for now when the people vote on bond issues?

Dr. DAVENPORT. I would not have any referendum if I had my way about it.

Mr. WOLFF (Cook). You would not think it was wise for the people to vote upon such occasions as they have voted on bond issues?

Dr. DAVENPORT. If the legislature feels a question ought to be presented to the people for them to vote upon, if they direct it, all right, but I would not have it as a constitutional provision.

Mr. WOLFF (Cook). You feel it is the greater evil of the two. If it is an evil, why should the legislature provide for it?

Dr. DAVENPORT. I think it is more dangerous, in that it opens the attack upon all kinds of unfinished business, whereas the initiative starts business of its own. If it fails, nothing has been accomplished.

Mr. WOLFF (Cook). Did I understand you to say, Doctor, that it is rather easy to get anybody to sign a petition?

Dr. DAVENPORT. I would not say it is easy to get anybody to sign a petition, but I would say it is easy to get a petition signed.

Mr. WOLFF (Cook). What would you consider a large percentage? Would you consider 5 or 10 per cent a very easy matter?

Dr .DAVENPORT. Yes, sir, let me write the petition.

Mr. WOLFF (Cook). Do you know of any more popular question than the equal suffrage question before the different States in the Union?

Mr. LINDLY (Bond). We can't hear the gentleman at all.

Mr. WOLFF (Cook). You don't hear my questions?

Mr. LINDLY (Bond). No.

Mr. WOLFF (Cook). I am asking the Professor if he knows of any more popular question in the different States than the suffrage question.

Dr. DAVENPORT. That is certainly one of the most popular. I don't know how it would compare with others I am sure.

Mr. WOLFF (Cook). You would put that in the class of one of the popular questions of today, would you not?

Dr. DAVENPORT. Oh, yes.

Mr. WOLFF (Cook). If you were told that the champions of woman suffrage had for months and months made a very serious attempt and an honest effort with many hundreds of women to get signatures and failed to get a hundred thousand signatures, would you change your mind?

Dr. DAVENPORT. I should say they better get somebody to write the petition.

Mr. WOLFF (Cook). Beg pardon?

Dr. DAVENPORT. I should say they did not know how to write petitions possibly.

Mr. WOLFF (Cook). They don't know how to write petitions?

Dr. DAVENPORT. I should say possibly they don't know how to write petitions.

Mr. WOLFF (Cook). The fact is, Professor, that many hundreds of women have spent many months trying to get a hundred thousand signatures and they have fallen down on it.

Dr. DAVENPORT. Yes.

Mr. WOLFF (Cook). I think that is proof it is not an easy matter to proceed to get signatures for petitions.

Dr. DAVENPORT. May I answer that in another way? I saw day before yesterday in my little town whole troops of people buying and wearing tags because they were offered, without stopping to ask any questions at all. I don't know what proportion of those knew what those tags meant. I know a very small proportion did know, but they bought the tags because they wanted to pass on.

Mr. WOLFF (Cook). Did I understand you to say, Professor, that the initiative and referendum is not a republican form of government? You have no doubt studied the different form of government in our various States?

Dr. DAVENPORT. No; I am a farmer.

Mr. WOLFF (Cook). Do you know of any State in the United States that is not a republican form of government?

Dr. DAVENPORT. I know States that have held up their universities for from twelve to fifteen months after the legislature had passed relief funds.

Mr. WOLFF (Cook). That is not answering the question. Do you know of any State in the United States that is not a republican form of government?

Dr. DAVENPORT. I think Oregon is not.

Mr. WOLFF (Cook). The States that have the I. and R., you would put them in the class of republican form of government?

Dr. DAVENPORT. I know I would not go to Oregon as long as they have the referendum, not in university work.

Mr. WOLFF (Cook). That is not answering the question, Professor. The twenty-two States where the people now have the right to use the I. and R., you would not class them as republican form of government?

Dr .DAVENPORT. No, sir; they are not a pure republican form of government.

Mr. WOLFF (Cook). You did not use the word "pure" before.

Dr. DAVENPORT. They are not a republican form of government, really.

Mr. WOLFF (Cook). In other words, our country is divided?

Dr. DAVENPORT. It certainly is.

Mr. WOLFF (Cook). Is that your idea?

Dr. DAVENPORT. Yes, sir.

Mr. WOLFF (Cook). Did I understand you also to say by the referendum the minority ruled?

Dr. DAVENPORT. I don't think so. I said the minority could always keep the question before us repeatedly.

Mr. WOLFF (Cook). Did I understand you to say that by that method the minority would rule?

Dr. DAVENPORT. No, I didn't say that. They may not succeed in getting their matter through, but they can keep the question open indefinitely.

Mr. WOLFF (Cook). I also understood you to say that the referendum seeks to undo some things. By what method can the referendum seek to undo things?

Dr. DAVENPORT. A law, as I understand it, which has been passed by a regularly constituted body, is not a law until it has been endorsed by the people.

Mr. WOLFF (Cook). If it is not a law, and the people vote upon it, how can they undo it? They simply approve it, do they not?

Dr. DAVENPORT. Well, isn't it true——

Mr. WOLFF (Cook). It doesn't become a law until they approve it. If they don't approve it, it stands as it was before?

Dr. DAVENPORT. Isn't it true that they can undo the law?

Mr. WOLFF (Cook). Not by referendum.

Dr. DAVENPORT. Can't they by initiative?

Mr. WOLFF (Cook). Yes, but you said the referendum, which you consider the greater evil of the two.

Dr. DAVENPORT. I think it is.

Mr. DAWES (Cook). Professor, you called attention to the splendid representation from your district in the Illinois State Senate in the person of a member of this body. Do you think, Professor, that the people of your district, competent to send such a splendid gentleman to the Senate, are competent to vote intelligently upon questions of government affecting themselves?

Dr. DAVENPORT. They might be if they had possession of all the facts as they do in the case of the election of this man.

Mr. CORCORAN (Cook). Professor, you say that the minority could simply keep an election stirred up continually and keep it before the people. Haven't you found in the past sometimes minorities are right and majorities are wrong?

Dr. DAVENPORT. Oh, yes.

Mr. CORCORAN (Cook). That wouldn't be a great harm, would it?

Dr. DAVENPORT. I think it would. I think the minority's business is to resort to the education of the majority.

Mr. CORCORAN (Cook). Finally the minority might convince the majority they were wrong?

Dr. DAVENPORT. The time to settle those questions is in our elections when we have these questions up for argument.

Mr. CORCORAN (Cook). You would prefer to have them wrong a long time without stirring them up and drawing them to their attention?

Dr. DAVENPORT. My point is, nobody can tell who is right. Nothing but human experience will settle that, but the very genius of our government is in the assumption that the majority is more likely to be right than the minority. If the minority is right and the majority wrong, public opinion will ultimately be converted.

Mr. CORCORAN (Cook). If they had elections, they would be allowed to express their will at the election.

Mr. HAMILL (Cook). Dr. Davenport, have you felt that you were antagonizing the right of the people to rule when you argued against the initiative and referendum?

Dr. DAVENPORT. Not at all.

Mr. HAMILL (Cook). Will you elaborate a little bit on this?

Dr. DAVENPORT. My point is this: The world has been going from one extreme to the other for thousands of years, as between the original rule of the king or the chief, which is arbitrary and autocratic, and did not consult the convenience or the welfare of the masses of the people, and the other extreme, after they beheaded the king and undertook to rule themselves, which generally resulted sooner or later in the selection of another king. Now, our Constitution makers, it seems to me, were extremely wise in forseeing that in coming out from under a king, we never could, in this great country, submit all these questions to the public voice. Therefore they provided for the selection of individuals in whom the general public had confidence, and turned the business over to them. We are not losing any rights we have in that way.

Mr. HAMILL (Cook). In what way does it come about that if the people may not act directly they still rule?

Dr. DAVENPORT. In the election of men in whom they believe.

Mr. HAMILL (Cook). By whom?

Dr. DAVENPORT. By themselves.

Mr. HAMILL (Cook). By the majority of the people?

Dr. DAVENPORT. By the majority of the people.

Mr. HAMILL (Cook). Then your real argument against the initiative and referendum is, is it not, that a majority of the people may express themselves in law through their representatives?

Dr. DAVENPORT. Yes, sir.

Mr. HAMILL (Cook). If a majority of the people could not express themselves in law through the representatives, would the premise of your argument be gone?

Dr. DAVENPORT. Oh, surely.

Mr. HAMILL (Cook). Thank you.

Mr. McEWEN (Cook). Mr. Chairman, may I have a little friendly discussion with the Professor?

Dr. DAVENPORT. It would not be anything else, I am sure.

Mr. McEWEN Cook). Sometimes our questions seem a little direct, and sometimes a little harsh and inconsiderate, but I am sure a spirit of kindliness runs through us all. Now, in the position you take, I think you did not express yourself as to the arguments that are made for the initiative and referendum?

Dr. DAVENPORT. No, I didn't discuss that at all.

Mr. McEWEN (Cook). I may say here, so you may understand my position, I introduced one of the proposals with a view of safeguarding an initiative and referendum by requiring a percentage of petitions throughout fifty-two counties of the State, and requiring a majority vote in those fifty-two counties, as well as in the State, to carry the proposition. So that my position is that the initiative and referendum is correct if safely safeguarded, so you will understand the angle at which I am approaching the subject.

Now, your argument, as I understand you, is that the legislature is the sole unlimited body, except by the veto, to pass laws. Now, you recognize, I take it, that corruption in human affairs necessarily runs into all bodies —I eliminate churches and educational institutions—but in all bodies where there are intense financial and personal interests. I take it you concede that, and that because of that there has been this agitation for an improvement in our form of government, and that agitation has taken the direction in some instances of the initiative and referendum. You believe that, do you not?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). And that is why twenty odd States have adopted some form of such supposed improvement. Now, the principal reason has been the charge of corruption in our legislative bodies; is that not true, in your judgment?

Dr. DAVENPORT. I rather think it has.

Mr. McEWEN (Cook). Well, notwithstanding that charge that has been made and acted upon in many States, you still believe that the legislature should be left in unlimited power and jurisdiction to pass laws?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). Have you any other thought along the line of abolishing the legislature and substituting something?

Dr. DAVENPORT. No.

Mr. McEWEN (Cook). Under any condition we must keep the legislature?

Dr. DAVENPORT. I think so.

Mr. McEWEN (Cook). We must keep some intelligent, specially selected body of men to supervise our law making?

Dr. DAVENPORT. I think so.

Mr. McEWEN (Cook). Do you see any real harm that has come out of local option in our wet and dry township questions in the past forty years?

Dr. DAVENPORT. Oh, I have not studied that question. I could not give an opinion on that.

Mr. McEWEN (Cook). Don't you think that you have lived out your life; you have seen the town voting dry one year and wet the next; don't you think it was really quite a competent expression of the people of that community that could determine whether they wanted the town wet or dry?

Dr. DAVENPORT. Sometimes they have been right and sometimes they have been wrong.

Mr. McEWEN (Cook). They had a right to say, did they not?

Dr. DAVENPORT. They certainly had the right to say.

Mr. McEWEN (Cook). They have the right to be wrong if they want to be?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). And if the people insist on going to the devil, there is no way of stopping them from going in that direction?

Dr. DAVENPORT. I should say if they are foolish enough to select the worst men in the community and let them make the laws for them, they ought to take the consequences.

Mr. McEWEN (Cook). You would have them go to the devil by the legislative route?

Dr. DAVENPORT. It is the same thing in the end, I think.

Mr. McEWEN (Cook). But, after all, it is impossible to corrupt an entire community of a State?

Dr. DAVENPORT. You cannot corrupt the entire community, but the entire community can go wrong.

Mr. McEWEN (Cook). But the people as a mass will be honest?

Dr. DAVENPORT. Oh, yes, I think so.

Mr. McEWEN (Cook). And the people as a mass in the same community will be honest, will they not?

Dr. DAVENPORT. I think so. I don't think it is a question of honesty at all. I think it is a question of capacity.

Mr. McEWEN (Cook). Don't you think it is a question of honesty in legislation?

Dr. DAVENPORT. I want to say a word about that matter of honesty in legislation when you are through.

Mr. McEWEN (Cook). If you prefer, say it now.

Dr. DAVENPORT. I should be glad to.

Mr. McEWEN (Cook). Right at this point tell us how much honesty you think ought to be in legislation.

Dr. DAVENPORT. I think it ought to be a hundred per cent, but that is asking too much, but it doesn't need to be a hundred per cent. I have been in this State over twenty-five years now, and it is not my State, so I can say anything I please about it.

Mr. McEWEN (Cook). I was born here, so we will just join.

Dr. DAVENPORT. I have always heard about corruption in the Illinois legislature. I have been pretty familiar with the way in which both the House and the Senate have done business. I have attended many hearings, always on university matters before this, and I just want to pay a tribute, not by way of flattery at all, to this particular State, because it is true of other States. I want to pay a tribute to the absolute integrity and the absolute determination of the working majority of both these houses to do the right thing as I have seen it for twenty-five years. Now, you can't convict a legislature of corruption unless you can convict the majority, or unless some man in the position of a chairmanship of an important committee betrays his trust. In that case we have a legal process for getting rid of him, but I would not submit the matter to the public vote again. I have every confidence in the integrity of the men.

Mr. McEWEN (Cook). You recognize, do you not, that corruption of a very small minority of the legislature, or small percentage, is effectual to carry over legislation that is nearly to the point of being carried away?

Dr. DAVENPORT. It might be. I have never known of a case in which very serious consequences resulted from that that it was not corrected at the very first opportunity afterwards.

Mr. McEWEN (Cook). Coming back to the matter of sufficient intelligence to vote wet or dry, you would hardly say that the average man living in a small community did not have sense enough to know whether he wanted the place wet or dry?

Dr. DAVENPORT. He knows the facts about that; he is perfectly competent to express himself on that point.

Mr. McEWEN (Cook). So you would have no serious objection to a referendum in a township on a subject on which the voter might be considered informed?

Dr. DAVENPORT. I should say the time for him to express himself upon that point is at the election of officers.

Mr. McEWEN (Cook). You recognize a proposition is an entirely different thing from the personality of a man?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). Now, may I put this situation to you to illustrate what I mean? In the district in which I live I was elected by some five thousand plurality, but the I. and R. as stated in the proposition was carried by nine thousand. I publicly announced that I would not be bound by the proposition as put on the ballot. I was not endorsed by the I and R. League, but not withstanding that—and I think that was generally known through the district—notwithstanding that, two contrary or apparently inconsistent results came out through the election. The way I construe it, and I will ask if you agree with me, it means that the people do not include the man in the proposition, and when they vote, they select the man, not thinking at the moment of what he might represent in the proposition, and therefore it made very little difference in the election as to the vote on the proposition. Do you think that is a correct analysis?

Dr. DAVENPORT. I don't think that is correct.

Mr. McEWEN (Cook). What would you say was the situation, and when I call your attention to this fact you will see my reason for asking? This State went for the I. and R. on this proposition by fifty thousand, if I remember rightly, and Cook county went by seventy thousand, and every district of Cook county was carried and twenty-nine districts of this State were carried. Many men are here who are in the same situation as myself, and possibly some of them are perplexed as to whether they have been instructed for any I. and R. or for the principle, or what their duty is here as representing a large majority of the people as I do. Now, I would be glad to have you say to the delegates here why you think the people voted for the personality apparently in contradiction of the way they voted on the proposition.

Dr. DAVENPORT. I think if the people have an opportunity to connect the man and the issue, they will elect that man who believes in the issue which they believe in. If they have not that opportunity, they will then choose the man in confidence, believing that he will do the right thing when the time comes. For instance, we lack now, in my opinion, at this particular time in the affairs of the United States, the counterpart of the old Lincoln-Douglas debates. In those Lincoln-Douglas debates, back in the pre-war times, we had brought out the opposing views of the time regarding the certain questions that were uppermost. We don't have the same clear cut statements of facts and theories of the issues now before us. Therefore public opinion is drifting, and it will seek the man, but it seems to me this is the point involved:

You were elected by your people as their representative here, presumably to use all the ability and all the judgment that you possess, and it seems to me your problem is this: To say whether their opinion about the merits of the initiative and referendum is as good as the knowledge which you can bring to bear upon the question.

I remember a discussion about our Philipino students in talking about Philipino independence. It was not a very strong discussion, and not very

many reasons were given why the Philipinos should be independent, but they said, "The principal reason is, they want it."

It seems to me a body like this, small in number, able to get at all the facts by correspondence, by interviews, by discussion, is certainly more competent to arrive at what is best for the State than any body of voters on as intricate a question as this, and it comes back to this question: Does the representative in an elective body represent the mature judgment and opinion of the people intelligently formed, or is it their snap judgment, with the expectation that he himself, when he gets in the body, will do the thing that is best?

Mr. McEWEN (Cook). Do you think that a delegate from the City of Chicago in this Convention has a right to sit in judgment and say that the men who are represented in that great majority of seventy thousand voters are all wrong?

Dr. DAVENPORT. No, but I should say this: If you are elected from a district that is overwhelmingly wet or dry, then certainly you are in the same position as the lawyer is who is defending his client. You are bound to see he has a fair deal, whether you believe in it personally or not.

Mr. McEWEN (Cook). Your opinion is then that a legislator should act independently of the judgment of his people?

Dr. DAVENPORT. Upon a question in which his information may be clearly better than theirs, I should say yes.

Mr. McEWEN (Cook). Would you say that a man in Chicago was not informed on the subject of the I. and R. when his opinion has been induced largely by City Council action, wherein he has seen legislative action with which he is not in accord and with which the great masses of people are not in accord, where he has seen possibly his lake front given away in the night, or he has seen the North Shore traded for a mess of pottage—and it does not take a lot of intelligence in the average man to understand that —do you think a representative appointed here has a right to say that man is uninformed and therefore he will overrule him, and overrules his instructions?

Dr. DAVENPORT. He is certainly not uninformed about those facts, but I should say he had been guilty of electing a very bad bunch to do business for him, and he better, in a new election, elect a different body of men.

Mr. McEWEN (Cook). Do you think it is possible to secure a body of men who will be free under any circumstances from the pressure which might be brought by tremendous influence?

Dr. DAVENPORT. I think if we cannot depend upon a body of men keeping itself clean and reasonably free from pressure of that kind, then our whole system of government will go down.

Mr. McEWEN (Cook). Doctor, don't you think that you, living in the atmosphere of the college, which we know is the model and ideal of the State, don't you think that you get away from the great masses of people and humanity in the great industrial centers of this State, and that your view is an idealistic one rather than a practical one?

Dr. DAVENPORT. I don't think so, because we have the same thing in the University.

Mr. McEWEN (Cook). Don't destroy our ideals, because we are sending our children there.

Dr. DAVENPORT. The idea of the initiative and referendum was born in the university, you know.

Mr. McEWEN (Cook). I wouldn't be surprised. There are a couple of million inventions in the patent office, and probably five per cent of them were very good inventions.

Dr. DAVENPORT. I don't know the difficult problems of legislation in the City of Chicago.

Mr. McEWEN (Cook). Wouldn't you say at least in any locality, applying your principle of the possibility of being uninformed, that the principle of the referendum would be very workable in municipalities where the subject was of such a character that the voters could be informed, such as, for instance, a bond issue, a question of whether they were going to load

any more debt on the city, or whether there is a wasteful administration in control of the city that will squander the proceeds of the bond if it were granted them, or whether it is an administration you can trust, don't you think, taking your rule or your objection into consideration, that it might be very proper to have some subjects submitted to a municipality?

Dr. DAVENPORT. I should say if the representative body whom they have elected deem it wise to take a vote upon the question, then certainly it should be taken. I would not take it out of their hands for that purpose.

Mr. McEWEN (Cook). Don't you think that leads into this position: If a man had committed a dishonest act in voting away the rights of the people, if you left it to him as to whether or not his dishonest action should be reviewed, don't you think it would stay right there at that point?

Dr. DAVENPORT. Isn't there any way of ousting these men for illegal acts?

Mr. McEWEN (Cook). If you can prove it.

Dr. DAVENPORT. Oh, yes, I know.

Mr. McEWEN (Cook). If you can prove it. I have known them to try to prove it. A man who offers the bribe says the alderman asked me for it, and the alderman says the man offered me a bribe, and between the two men, both of them unworthy of belief, the jury have all kinds of doubts, reasonable or otherwise. If they could put them both in the penitentiary they probably would do it.

Dr. DAVENPORT. That shows they have elected some pretty bad people to rule over them.

Mr. McEWEN (Cook). Do you think the City of Chicago is any different from any other city?

Dr. DAVENPORT. Well, there is more of it, of course.

Mr. McEWEN (Cook). Just more of it.

Dr. DAVENPORT. Yes. It raises the question, I should say, whether a benevolent autocracy might not be better than a representative form of government.

Mr. McEWEN (Cook). What they need in Chicago is a good king?

Dr. DAVENPORT. I guess that is so.

Mr. McEWEN (Cook). I presume that is what the down State men think, but we are not half as bad as you think. I want to ask you this; whether you have ever given any consideration to the possibilities of action and violent action by large groups of men, men who can come together in large bodies; in other words, what you referred to as the mob?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). There isn't much difference in a mob whether it is a Chicago mob or a down State mob?

Dr. DAVENPORT. No difference at all.

Mr. McEWEN (Cook). A Springfield mob kills the black man, and the Chicago mob does the same thing, and the East St. Louis. The spirit of fury takes possession of the mass of men, and they are all alike. Have you ever considered that if the people are invited to consider legislation and they are given a means of consideration by a process of referendum, that it is a great deal better for a group of people to be led by men who express their desire for a better condition of things and a more honest condition of things, and isn't it better for those people to go and hold a meeting and start a petition with a view to holding elections than it is for them to go and look for a gun, or wonder where the nearest hardware store is to get some firearms?

Dr. DAVENPORT. I should say it is the choice between two evils, but it raises the question whether the republican form of government has not broken down under those conditions.

Mr. McEWEN (Cook). Do you think a republican form of government has broken down because twenty-two states have said, "We don't fully trust the legislature?"

Dr. DAVENPORT. No, but I think it is in danger of doing that very thing.

Mr. McEWEN (Cook). Do we trust the courts? They are supposed to be the standard of right. Do the people trust them?

Dr. DAVENPORT. I think we have got to trust them.

Mr. McEWEN (Cook). Don't they insist that the man who has his action in the court below shall have the right of appeal and review?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). And in this State in most cases we have two reviews, or at least the possibility of two reviews. Doesn't that indicate a feeling that there may be a mistake in the court below?

Dr. DAVENPORT. Surely.

Mr. McEWEN (Cook). And that it might be corrected upon review? Now, is there anything wrong in that distrust?

Dr. DAVENPORT. There is wrong the minute you take the case away from the courts and take it back to the people.

Mr. McEwen (Cook). I am not going into the argument of recalling the judicial decisions.

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). We have eliminated that. We have only the legislative question before us. I brought up the subject of the courts to indicate that there is no system of government that absolutely trusts any one set of men in any position or any duty; the government assumes that a bad man will break that duty; isn't that the theory?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). And endeavors to set in its Constitution such restrictions that the bad man will have to go straight; isn't that the theory of government?

Dr. DAVENPORT. I don't think it is the theory of the republican form of government.

Mr. McEWEN (Cook). You think it is the theory of trusting to the honesty of officials?

Dr. DAVENPORT. I think so.

Mr. McEWEN (Cook). Then we are head on on that issue.

Dr. DAVENPORT. If that man was appointed and had accepted, it would be a different question, but when we are going to elect another man the next time, the question is different.

Mr. McEWEN. (Cook). I have read some of the essays of the men who wrote the Constitution of the United States, and if I am not badly misinformed, that is what they said; that it is always to be assumed that bad men will get into positions; you have a good man today but a bad man the next time; and the law should be designed to curb the bad man.

Dr. DAVENPORT. And the Constitution of the United States was burned by a mob in Albany.

Mr. McEWEN (Cook). There was a strong, intense factional feeling there.

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). And there is quite a strong line of cleavage between the City of Chicago, the matchless city by the lake, and this matchless farming country.

Dr. DAVENPORT. I think there is another point we ought to make more of than we are likely to make. I think the lack of confidence in the government has been too much over-exaggerated. I think the average man who has not been around legislatures has an exaggerated notion of the corruption of those bodies. Unquestionably these large municipal legislative bodies are open to more means of corruption than the State legislature.

Mr. McEWEN (Cook). What I want to ask you, Doctor, is this: Don't you think that giving the public a means to discuss a proposition will afford a safety valve for popular feeling, and don't you think it will do away with a lot of the criticism of the legislature? A great deal of it is unjust, of course, because it is founded upon suspicion only. Don't you think it will do away with that feature, and that the public would discuss a measure upon its merits as to whether it should be approved or disapproved at the next general election?

Dr. DAVENPORT. No, I believe the best outlet of public opinion is in the hearing in the committee of the whole of these bodies.

Mr. McEWEN (Cook). Do you think that gives an opportunity to people who live in Chicago and who have to pay railroad fare to come down here to come before committees, particularly the working group of people?

Dr. DAVENPORT. Oh, I think so; they have lots of money to travel with.

Mr. McEWEN (Cook). You think they have lots of money?

Dr. DAVENPORT. They seem to have.

Mr. McEWEN (Cook). Do you know anything about taxes in Chicago?

Dr. DAVENPORT. Any group of people has money enough to get their representatives to the legislature.

Mr. McEWEN (Cook). Do you think they have money enough to come down here to the legislature and compete with some other people?

Dr. DAVENPORT. I have seen all classes of people here, anyway.

Mr. McEWEN (Cook). Well, I think you have answered the question, and possibly I would gain nothing by repetition. Your idea is, Springfield is accessible to everybody in the State?

Dr. DAVENPORT. I don't believe there is money enough in any group of people to buy the legislature of this State and keep evil laws on the statute books.

Mr. McEWEN (Cook). Will you make your statement broader, Doctor, and say you don't believe there is any group of people which has enough money to influence the legislature of the State of Illinois?

Dr. DAVENPORT. Oh, I think it is theoretically possible that money could occasionally, put at the right spot, when the particular man happens to be in a position of influence, turn the tide.

Mr. McEWEN (Cook). You think it is theoretically possible but is not true in fact?

Dr. DAVENPORT. Oh, yes, I think it has happened, no question about it, but I think it happens often enough to overturn our whole system of government on that account.

Mr. McEWEN (Cook). If you submitted that question to a hundred voters what do you think the vote would be?

Dr. DAVENPORT. I think 90 per cent of them would say they were corrupt, probably 80 to 90. I think they have been fed up on the corruption of our officials.

Mr. McEWEN (Cook). Don't you think it is a good plan to remove that idea?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). Don't you think the idea of the referendum is the best plan that has been suggested for removing that impression?

Dr. DAVENPORT. I don't think so, because it assumes there is more of this than there really is. I think it cultivates distrust of the government.

Mr. McEWEN (Cook). What would you suggest?

Dr. DAVENPORT. Frank and open hearings.

Mr. McEWEN (Cook). Where?

Dr. DAVENPORT. At the legislature, at the city councils.

Mr. McEWEN (Cook). Would you have some means of distributing the information in those hearings to the people in the State?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). That is not done now, is it?

Dr. DAVENPORT. I don't know.

Mr. McEWEN (Cook). Except through the partisan newspapers and the interest newspapers.

Dr. DAVENPORT. Of course, I would hate to express in public an opinion of the way some of our newspapers handle our government affairs.

Mr. McEWEN (Cook). Your mind is the same as mine.

Dr. DAVENPORT. We do have our organizations, and these organizations, it seems to me, are pretty effective.

Mr. McEWEN (Cook). Would you suggest a State conference of publicity by which all the people of the State could be informed as to just what was going on?

Dr. DAVENPORT. If it could be done as a part of the administrative branch of the government.

Mr. McEWEN (Cook). Has any State attempted that?

Dr. DAVENPORT. Not that I know of. I expect it would be pretty hard to find out that Jones had accepted a thousand dollars over in the hotel.

Mr. McEWEN (Cook). You and I both recognize there are situations that ought to be met in the masses of the people.

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). Do you think there is any danger in making an initiative and referendum here which is hedged about so that it cannot be used by anybody when he happens to take an offense at somebody, but which requires a general State wide movement, requiring at least fifty-two counties to participate to carry it, as well as the entire State; do you see any danger in that sort of referendum as a practical experiment to see if we cannot get the public mind in a better condition towards its government?

Dr. DAVENPORT. Yes, I think it is a dangerous experiment. I don't believe it is necessary to take that risk. It is a departure from our form of government. I don't believe it is necessary to take that risk. It is a departure from our form of government which it seems to me is unnecessary and dangerously unwise.

Mr. McEWEN (Cook). And the only dangers you see are the dangers you recited here this morning?

Dr. DAVENPORT. I think it undermines confidence in our representatives, which, it seems to me, is the stock in trade of our kind of government.

Mr. McEWEN (Cook). And that is 90 per cent uninformed now.

Dr. DAVENPORT. I think they ought to be educated. Of course, it might be 60 or 50 per cent.

Mr. McEWEN (Cook). Any considerable per cent.

Dr. DAVENPORT. I think you ought to educate them.

Mr. McEWEN (Cook). How?

Dr. DAVENPORT. I think you ought to educate the public upon that point. They have not been educated much except in the wrong direction.

Mr. McEWEN (Cook). You think you can educate the public against the fact that they are influenced?

Dr. DAVENPORT. No, but you can educate in favor of the fact that the legislative bodies are not openly either dishonest or incompetent.

Mr. McEWEN (Cook). You cannot educate them against the fact that they are influenced?

Dr. DAVENPORT. I don't know how we can set up a human form of government that is not some times influenced by improper motives.

Mr. McEWEN (Cook). Your position is based upon the contention that you cannot trust the people as a mass?

Dr. DAVENPORT. Not at all. Don't misunderstand me there. I do trust the people. They elect their own representatives. There are no restrictions upon that, and having once elected that man, leave him in that position, or remove him by legal methods.

Mr. McEWEN (Cook). That is as far as you are willing to trust him?

Dr. DAVENPORT. I would not say trust; I would say go.

Mr. McEWEN (Cook). Now, is there any use of our thinking we can rest secure in a form of government which does not have the support of the people; aren't we just amusing ourselves?

Dr. DAVENPORT. I don't think so.

Mr. McEWEN (Cook). Do you think that we can establish a form of government that does not trust the suffrage of the people of the State?

Dr. DAVENPORT. The government is already established, it was established a long time ago.

Mr. McEWEN (Cook). I mean an enduring form of government.

Dr. DAVENPORT. You cannot tell what is going to happen to this government.

Mr. McEWEN (Cook). You prefer to wait until something happens?

Dr. DAVENPORT. If you mean by that, shall we cater to the mob by going half way, that is a different question. I think that education is much safer than experimenting with the government.

Mr. McEWEN (Cook). Do you think we are catering to a mob when you require an orderly petition, a percentage of voters in 52 counties and the vote of the entire State and the majority vote of the 50 counties, do you think that is catering to a mob?

Dr. DAVENPORT. No, but you were speaking of the danger of the mob.

Mr. McEWEN (Cook). You were talking about catering to the mob by going half way, and I thought you referred to the referendum.

Dr. DAVENPORT. No.

Mr. McEWEN (Cook). We are agreed that the referendum is catering to the mob?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). It is an experiment in government?

Dr. DAVENPORT. Yes, and I think a very dangerous one.

Mr. McEWEN (Cook). And the experiment that has the approval of the majority of the voters, the approval of the voters of the State that sent these people here.

Dr. DAVENPORT. I think if the people want a different form of government the people will have it, and take the consequences, what they are.

Mr. McEWEN (Cook). You did not answer my question as to whether the experiment of government had been approved by the majority vote of the people of this State at the last election?

Dr. DAVENPORT. I do not think the mass of the people of this State are informed upon this question.

Mr. McEWEN (Cook). You are in favor of limited suffrage then?

Dr. DAVENPORT. That does not follow. there is unlimited suffrage now except for women in the electing of these representatives, and they are elected and re-elected every few months. Our system of government is tremendously responsive to public opinion, and we review the acts of the legislative bodies by popular vote.

Mr. McEWEN (Cook). You are denying that the individual voter has the right to vote on this question of whether he shall have Initiative and Referendum by amendment to the Constitution?

Dr. DAVENPORT. If the majority of the people insist on it.

Mr. McEWEN (Cook). So your argument is, as I understand it, if a man stays at home he has voted against the proposition?

Dr. DAVENPORT. Oh, yes.

Mr. McEWEN (Cook). And because that vote was possibly a forty per cent vote of the voters of the State it is not a true expression?

Dr DAVENPORT. It is practically impossible to get a majority vote upon any question.

Mr. McEWEN (Cook). By the same token the delegates in this Convention, we probably lost 40 per cent of the votes of the State, having been voted against by the stay-at-homes, and that we ought to shut up shop and go home?

Dr. DAVENPORT. If we don't vote, then we take the consequences, what ever they are.

Mr. McEWEN (Cook). I do not want to appear in any annoying way, you and I are carrying on a colloquial argument.

Dr. DAVENPORT. A friendly conversation.

Mr. McEWEN (Cook). Yes. You recognize in the City of Chicago that we have the problem of a very close population?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). A close population that does not obtain through the scattered farming community and that those problems in lesser degree appear in the smaller cities throughout the State; do you take the position that the City of Chicago should be treated in any different regard or by a different measure than the agricultural districts of the State?

Dr. DAVENPORT. The Municipal Government is not a part of the general government; that is for them to determine very largely; the City of Chicago may want a democratic form of government or an autocracy.

Mr. McEWEN (Cook). Do you think the mass of people should be treated any different down the State?

Dr. DAVENPORT. It is a different mass, and I am not acquainted with the conditions in Chicago as well as I am down the State and I cannot answer the question.

Mr. McEWEN (Cook). Do you want your argument made today to apply to the City of Chicago?

Dr. DAVENPORT. If the city of Chicago is undertaking to live under a republican form of government, like the rest of the country they should do so and not resort to these matters.

Mr. McEWEN (Cook). You have complained because the vote was not sufficiently uniform, the vote on the Initiative and Referendum. You said you are not informed as to the nature of the people of Chicago.

Dr. DAVENPORT. I am not discussing municipal government.

Mr. McEWEN (Cook). If that is true, do you think you are competent to vote on the problems of Chicago?

Dr. DAVENPORT. I am not a delegate, but if I were, I think I would try to inform myself.

Mr. McEWEN (Cook). I am asking you whether you are a qualified citizen to vote on that subject?

Dr. DAVENPORT. No, I am not.

Mr. McEWEN (Cook). If you are not a citizen qualified to vote on that subject do you think you are qualified to come here and express something, or to try to govern the delegates from Chicago or say what ought to influence them regarding the problems which they have which are due to citizenship or humanity en masse?

Dr. DAVENPORT. I am not informed as to whether Chicago should have a democratic or republican form of government, but if they decide on a republican form of government that is what they should have.

Mr. McEWEN (Cook). You do not think the Initiative and Referendum is a republican form of government?

Dr. DAVENPORT. I do not think it is.

Mr. McEWEN (Cook). And to the extent we have had referendums in the State we have not a republican form of government?

Dr. DAVENPORT. To the extent of the I. & R. that is a democracy, of course.

Mr. McEWEN (Cook). You know in the Commission Form of Government which has been adopted in a very small part of the cities, that they have the Initiative and Referendum and I believe the Recall?

Dr. DAVENPORT. Yes, I believe so.

Mr. McEWEN (Cook). In all its glory, that is recognizing the principle fully?

Dr. DAVENPORT. Yes.

Mr. McEWEN (Cook). Do you know of any complaint from those cities that have adopted that form against the Initiative and Referendum or Recall?

Dr. DAVENPORT. That is a democratic form of government, of course, and appears to satisfy them.

Mr. McEWEN (Cook). Don't you think it is republican in practical operation, but with some democratic features?

Dr. DAVENPORT. It is a democratic system laid on top of a republican system. I think I will have to tell you of a letter I received from a man on the Pacific Coast.

Mr. McEWEN (Cook). We have had so much about New Zealand and Australia that a man on the Pacific Coast would not count at all. We start here by going back to the days of Moses for historical reference, and we are going to Australia for illustrations of beautiful forms of government. Nobody has yet referred to the Eskimos, but I presume that will be

done in due course when some of those who are educating this Convention get full opportunity to express it.

Dr. DAVENPORT. I must tell about my correspondent in this connection as illustrative of the way some of our people feel. The first half of his letter was devoted to a discussion of his opinion that our public utilities and most of our private business should be under government control, and the last half of his letter was abusing the government and saying we will have to take the government out of the hands of the officers and run it ourselves, and it seems to me that is the way a great many people are reasoning.

Mr. McEWEN (Cook). One of the objections you made is that it makes government by slogan, by getting up catchy phrases, and in your response to Mr. Wolff's question you thought if the women had got up the right kind of a slogan that they would have got the 100,000 votes?

Dr. DAVENPORT. A slogan is more effective in stopping than promoting a thing.

Mr. McEWEN (Cook). Do you think it is a real objection because you can epitomize in the form of the slogan the principal features of a campaign, do you think that is a real objection? You remember the time Grover Cleveland was runing for office, and a great many things were said about him and they inquired of him whether they were true, and instead of answering them, he said, "Tell the truth," So they printed "tell the truth" on all of their banners and in all of their circulars and on hand bills, and it is said that the slogan "Tell the truth" elected Cleveland, and according to history he did have that quality. Would you say that it was a reprehensible slogan.

Dr. DAVENPORT. I say it is a dangerous thing, I still say so.

Mr. McEWEN (Cook). Would you have a law which would prohibit such a slogan as "He kept us out of war?" (Laughter.)

Dr. DAVENPORT. No, I didn't say anything against the slogan

Mr. McEWEN (Cook). Do you know any way of keeping the slogan out of American business?

Dr. DAVENPORT. No.

Mr. McEWEN (Cook). They say, "Uneeda Biscuit," and make a slogan out of it.

Dr. DAVENPORT. I would not want to be governed by slogans.

Mr. McEWEN (Cook). That is not an objection to the Initiative and Referendum?

Dr. DAVENPORT. It is one of them.

Mr. McEWEN (Cook). Do you think it is a real one?

Dr. DAVENPORT. No question about it.

Mr. McEWEN (Cook). Do you think we can get along without the English language, or that we can prevent the use, the proper use of the English language in expressing anything?

Dr. DAVENPORT. I do not know that there was any disposition to do that.

Mr. McEWEN (Cook). You objected to the use of the slogan and you say the slogan condemns the referendum.

Dr. DAVENPORT. I said the referendum gives opportunity to defeat a good measure by the slogan.

Mr. McEWEN (Cook). I think we have come to a very good understanding on some things, and agree pretty well on others, and I think probably if I were down in your position in Champaign I might have the same views, and if you had spent forty years in Chicago you would have my views, but we agree upon one thing, and that is Senator Dunlap is a very fine citizen.

Dr. DAVENPORT. Yes, we can agree on that.

Mr. CORLETT (Will). The speaker referred to Oregon and the university of that State. I wonder if he would tell us how the use of the referendum nearly wrecked that State university?

Dr. DAVENPORT. My understanding of the case is, and it is a bit second hand, they were in trouble for funds, of course, as all universities

are likely to be; the legislature gave them relief, but under their system it had to be submitted to the referendum; and as I recall something like 18 months transpired before the act of the legislature was affirmed and the money made available—whether it was eighteen or six months—my point is that the men accustomed to do public business should be able to make appropriations without it being necessary to refer the question again to popular vote.

Mr. DUNLAP (Champaign). As I understand the laws of Oregon it is that the laws will go into effect provided a petition is not filed to submit it to a vote of the people, and I wanted to clear up that idea that the laws of Oregon had to be submitted to a vote of the people. They do not.

Dr. DAVENPORT. Unless there is a demand.

Mr. DUNLAP (Champaign). In this case there was a petition asking for referendum, and that held up the appropriation.

Dr. DAVENPORT. Yes.

Mr. LATCHFORD (Cook). You stated you were in favor of a representative form of government, did you not?

Dr. DAVENPORT. Oh, certainly, that is our form of government, and I am in favor of it.

Mr. LATCHFORD (Cook). You believe then when bills are introduced they should be introduced on the floor of this assembly, read three times, referred to committees—that is the procedure, is it not, and then referred to a committee?

Dr. DAVENPORT. I think the assembly is perfectly competent to settle its own method of doing business, and that is what it does.

Mr. LATCHFORD (Cook). What would you say if I informed you that a bill was passed by the legislature on this side of the House and the Senate on the other side concurrently, there were three readings and it was signed by the Governor inside of one hour, what would you think of that kind of legislation?

Dr. DAVENPORT. I think they put it through pretty rapidly; it may have been wise or unwise.

Mr. LATCHFORD (Cook). It has been done, but not under the present Constitution. You are aware the people of the State of Illinois on three occasions voted by a majority vote in favor of the Initiative and Referendum?

Dr. DAVENPORT. I understand so.

Mr. LATCHFORD (Cook). Are you aware that in 1913 the Senate almost unanimously voted in favor of the bill for the I. & R.?

Dr. DAVENPORT. I was not discussing what this body should do, but giving my opinion on the Initiative, Referendum and Recall on general principles, and I think I should say I was a Michigan man at the beginning and I shall soon be a Michigan man again.

Mr. TRAEGER (Cook). Do you not believe the referendum is a protection to the tax payers in a large city?

Dr. DAVENPORT. I do not profess to know the difficulties in Chicago or New York, but I do not believe in the referendum under any circumstances with the republican form of government.

Mr. TRAEGER (Cook). Statistics show that before the war the debt of New York City was greater than the debt of the United States.

Dr. DAVENPORT. And the business was larger, too.

Mr. TRAEGER (Cook). Do you suppose if the people had had a vote on that large indebtedness that they would have taxed themselves as those in office tax them?

Dr. DAVENPORT. I should judge that if the City of Chicago was given the opportunity that it would tax itself on several bond issues by a popular vote.

Mr. TRAEGER (Cook). In our City of Chicago we have found that a protection; the people vote for a bond issue, they appear to want it and are willing to pay for it, but when officials pass it without an expression from them as a rule it is criticised.

Dr. DAVENPORT. Naturally it would be, if the usual system was to submit it at other times; if it is their custom to refer bond issues to the people and then refrain from it on some particular occasion, of course it would be criticised.

Mr. IARUSSI (Cook). Have you always been against the I. & R., Doctor Davenport?

Dr. DAVENPORT. I have been against it ever since I have known anything.

Mr. IARUSSI (Cook). Did you ever at any time go before an election go before the voters of Illinois and give them your general views that you have argued here today?

Dr. DAVENPORT. I have never been asked to.

Mr. DEYOUNG (Cook). You said if the question of the legislators being corrupt was submitted to a vote you believed that the vote would be ninety per cent, and probably ten per cent against the view they were crooked?

Dr. DAVENPORT. That is a rough statement, of course.

Mr. DEYOUNG (Cook). Yes, but in any event your view is that a large majority of the electorate would vote that the legislators, every one and all of them were crooked?

Dr. DAVENPORT. No, that is a different thing. I would not want to go on record for ninety per cent, even.

Mr. DEYOUNG (Cook). A large majority?

Dr. DAVENPORT. Yes; I think there is a feeling, due to discussions in the press, the public has become so fed up on the corruption of public officials, at least a large part of the public that it has become a slogan that they bear watching.

Mr. DEYOUNG (Cook). If they voted on that proposition they would be voting on a suspicion rather than upon a fact?

Dr. DAVENPORT. Certainly they would.

Mr. DEYOUNG (Cook). Dean, your objection to the electorate voting on any and all questions is not a denial of the right of the people to rule, but as you say it is because of lack of information?

Dr. DAVENPORT. Yes, entirely.

Mr. DEYOUNG (Cook). It is the lack of that knowledge which any man ought to possess in order to express himself intelligently on any subject?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). In other words, we could never carry on a responsible government in Illinois or elsewhere if our vote was influenced and exercised merely upon suspicion or lack of information?

Dr. DAVENPORT. I think that is right.

Mr. DEYOUNG (Cook). And the fact that you have been asked whether or not votes have been made in the past on the question of the liquor traffic is not conclusive against your statement, is it, Dean, that that is one question upon which the public may be possessed of a great deal of information?

Dr. DAVENPORT. I do not think it is at all conclusive.

Mr. DEYOUNG (Cook). In other words, there may be some questions like the liquor traffic or women's suffrage upon which the electorate have a much wider information, and can vote with a much higher degree of accuracy than they could upon a great number of questions that might be submitted to a legislative body?

Dr. DAVENPORT. Yes, and they can accomplish their purpose in the regular way by the election of representatives.

Mr. DEYOUNG (Cook). And it is not a question at all of the voter having judgment or a right to vote?

Dr. DAVENPORT. Not at all.

Mr. DEYOUNG (Cook). You have been asked a question whether the representative that sit in this hall as a member of the General Assembly and who comes here by a plurality vote is not a par with the plurality vote on a measure; is not there a clear cut distinction?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). Is it not this, that in a General Assembly, although a considerable proportion of the membership may be here by a mere plurality vote, it requires an affirmative majority of all those elected to the body, those who fail to vote not counting, but an actual affirmative majority in each house before a measure can be enacted?

Dr. DAVENPORT. Yes, you get a majority of the majority.

Mr. DEYOUNG (Cook). Is it not true, Dean Davenport, that candidates for office almost universally receive larger votes at the same election than has been true upon measures, even though they would have been of a constitutional order?

Dr. DAVENPORT. I have no statistics, but I think that is true. I think the electorate desires to get at one time an opportunity to express itself upon large issues and elect men to represent them, and then go home.

Mr. DEYOUNG (Cook). Is it not also true that the rivalry between candidates will engender more heat, and more interest than will the average discussion upon measures that may be submitted?

Dr. DAVENPORT. Very much more.

Mr. DEYOUNG (Cook). May I not call your attention to the vote in 1916 upon a question of primary importance, that of taxation; do you remember any general discussion throughout the State on that question at that time, Dean Davenport?

Dr. DAVENPORT. No, I do not think so.

Mr. DEYOUNG (Cook). Do you remember a discussion concerning that question comparable to discussions concerning the candidates for office, say, Governor or President?

Dr. DAVENPORT. No, I do not, you cannot get the same interest.

Mr. DEYOUNG (Cook). The fact of the matter is that on a question upon which our own people and the people from whom we have largely inherited our institutions, upon which they have always exercised, not only their talents but which the ablest and noblest men have suffered, the question of taxation, even that in 1916 did not begin to attract the attention that candidates for the gubernatorial office did, for instance?

Dr. DAVENPORT. I think there is no way to compare at all with the candidacy of a self-respecting citizen who is somewhat intelligent about those matters, and if he is not intelligent he does not want to be a candidate.

Mr. DEYOUNG (Cook). You recognize in our experience in Illinois, even in the Constitution of 1870, we provide for separate election of probably the most important judiciary in the State, the circuit judges; do you know why?

Dr. DAVENPORT. I suppose to free it from other elections and entanglements.

Mr. DEYOUNG (Cook). You recognize now we have provisions in our legislation requiring measures to be submitted separately and not upon the same ballot with candidates for office?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). If the republican form of government is broken down in the United States, what is the reason for it in your opinion?

Dr. DAVENPORT. I think a great reason is lack of confidence in our own people. I do not want to go on record that ninety or any other per cent of the people do not trust our representative body of officials, but it is a very large per cent, and my reason for saying that is not only what passes current on the streets, but it is what I have found reflected by our students who come from the ends of the State and the world for that matter, and bring with them a pretty good epitome of public state of mind about various matters. It seems to me almost inherent in masses of those young people that they think of course public bodies are crooked, of course they steal and do all these things, and you have to remove that by the most vigorous kind of education, and I have over and over again said to those students that I never knew a more honorable body than the legislature of the two States that I happened to be acquainted with and happened to come in contact with, and they seemed to be glad to get that information.

Mr. DEYOUNG (Cook). Your observation of the General Assembly of Illinois has been more close than that of the average citizen of the State, has it not?

Dr. DAVENPORT. I think so.

Mr. DEYOUNG (Cook). You urged as one objection to the Initiative and Referendum the slogan, and Judge McEwen asked you whether or not because you made that assertion you objected to the use of the English language in elections. The one of course does not follow from the other, does it?

Dr. DAVENPORT. Not at all.

Mr. DEYOUNG (Cook). You do not believe, do you, Dean Davenport, that because a man may not subscribe to some of the principles of the Initiative that has been put forth that he for that reason has lack of faith in the people or that he does not trust the people, do you?

Dr. DAVENPORT. I do not think so.

Mr. DEYOUNG (Cook). And do you think it is a fair question or a slogan to say to one who does not accept the Initiative and Referendum in the forms in which it was put forth at the last election that he does not trust the people?

Dr. DAVENPORT. Oh, no; I would illustrate it this way. What is the attitude at the University of Illinois of the college of agriculture toward the people of the State? Do we trust them? We are the creatures of the people of the State of Illinois just the same as this Convention and the legislature that sits here. It ought not to be a question of whether they trust the people. Of course they must trust them, they made them, and they can unmake the legislature any time they want to.

Mr. DEYOUNG (Cook). An instance of the use of the slogan to which you object is the one where the proponents of the Initiative and Referendum put the question to the opponents, "Don't you trust the people?"

Dr. DAVENPORT. I think that is a dangerous slogan.

Mr. DEYOUNG (Cook). That is more specious in your mind than sound?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). And the same is true with the other slogan, "Let the people rule."

Dr. DAVENPORT. Yes, they rule now. If we had an autocracy those slogans would be good.

Mr. DEYOUNG (Cook). So far as we have the republican government guaranteed by the Federal Constitution in every State with the opportunity of electing representatives every second year, your view is that the people do have the right and the opportunity to rule?

Dr. DAVENPORT. Yes, all they can safely have.

Mr. DEYOUNG (Cook). There has been something mentioned about the City Council in Chicago being corrupt, and none of us will have any quarrel about that statement; that there has been corruption in the City Council of Chicago. I do not happen to be a resident of that city, so we are both on neutral ground. Are you advised, Dean Davenport, that some aldermen to which this objection has been made, probably with truth, have been elected over and over again by their constituents?

Dr. DAVENPORT. Yes, sir.

Mr. DEYOUNG (Cook). Although the people have the opportunity to retire them absolutely, they still kept on sending them back?

Dr. DAVENPORT. Yes, sir.

Mr. DEYOUNG (Cook). That is rather an indication of indifference on the part of the electorate or perhaps approval of their course, probably the first?

Dr. DAVENPORT. Yes, I would say indifference.

Mr. DEYOUNG (Cook). Although they had the opportunity to retire them time and again, they have not exercised it?

Dr. DAVENPORT. Yes. I see Mr. Shanahan here; he has been returned many, many years from the same district, which is evidence that they have been pleased with his services or I assume that they would not

have returned him. I do not suppose he orders his own election in his own district.

Mr. DEYOUNG (Cook). No, he has to be re-elected every term during the quarter of a century he has been here.

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). And the courts have power to bring to the bar of justice any public officer that is guilty of corruption?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). Your view is, in a large measure there is more suspicion than fact in the charges bandied about?

Dr. DAVENPORT. I think it is all suspicion.

Mr. CORCORAN (Cook). Don't you think if the people had the Initiative and Referendum they would educate themselves and inform themselves and in time be qualified to pass to a larger extent than they do now, and be better qualified as to what they were doing?

Dr. DAVENPORT. I do not think it is possible for the majority of people to inform themselves very much of the intricacies of law making.

Mr. CORCORAN (Cook). You do not think they will inform themselves if they had this responsibility upon them?

Dr. DAVENPORT. No, I do not think they would go very far in it. I, for instance, would want to do something else besides study law. I would say this, if the electorate of the State has not elected to this body anything better than the average of its own number it has done a pretty bad job.

Mr. COOLEY (Vermilion). I take it from your remarks that you believe that the people, when in possession of the facts, can be trusted every time?

Dr. DAVENPORT. If they know all the facts, I think public opinion is as good a guide as we can get.

Mr. COOLLEY (Vermilion). Upon what can the public depend for their knowledge of the facts?

Dr. DAVENPORT. They must depend upon sources of information that are more or less expert. If it is a legal question I do not know how they can depend on anybody but the lawyers.

Mr. COOLLEY (Vermilion). I mean upon questions of public policy.

Dr. DAVENPORT. I would say this, if we are going to raise the question of the nationalization of land, it would take a long time to find the facts on that proposition.

Mr. COOLLEY (Vermilion). I quite agree with you. I wanted to know your idea of their means of obtaining information.

Dr. DAVENPORT. I think they have the means now of informing themselves about most large questions. Of course if the question centers in their own locality, like the liquor question, they have first hand information. I think it is asking too much of the average citizen to expect them to spend a lot of time studying up on these things, that is the middle most man, and by that I mean the middle most man, and below him there is a vast number of people who do not read the English language and have no means of acquiring information.

Mr. COOLLEY (Vermilion). Then your objection, as I understand it, is the difficulty with which the people obtain the facts?

Dr. DAVENPORT. I would say more than that. I would say the impossibility of their obtaining all the facts. If I have a case involving the law, I do not attempt to decide it, but I go to my friend the lawyer and ask him, and in that way I save time and probably get better results.

Mr. COOLLEY (Vermilion). Much has been said here about some impending danger, and some insinuations that this government might break down unless certain measures were taken. Isn't it a fact that our representative form of government, our United States, is the oldest popular government that the world has ever seen, and the most substantial?

Dr. DAVENPORT. I understand so. I understand, too, we have more international law decisions on our records than any other country.

Mr. HAMILL (Cook). Reference was made to the majority of votes cast for the Initiative and Referendum; are you aware in the presidential

election in Illinois in 1916 the vote was substantially 2,193,000 and that upon the question of the Initiative and Referendum in this State at the election last November there was cast substantially 467,000, some less than 21 per cent of the voters as qualified in the election of 1916?

Dr. DAVENPORT. That is what I expect, although I have not the figures.

Mr. HAMILL (Cook). Are you aware of those 467,000, or of the 21 or less than 21 per cent that voted, only about eleven and one-third per cent voted for and about nine and one-half against?

Dr. DAVENPORT. That is the reason why I spoke of the almost heckling power of the minority under such a system as this.

Mr. HAMILL (Cook). Are you aware, too, of the 257,000 that were cast in favor of something like 148,000 votes were cast in one county?

Dr. DAVENPORT. I do not know of those figures, but I would not be surprised at that.

Mr. HAMILL (Cook). The facts as I understand it are there was a plurality of about 70,000 in Cook county, and down the State a plurality against of about 32,000. If I were called to your attention that in Cook county there was a concentrated agitation in favor of the I. and R. and almost nothing done by those who opposed it in influencing voters, what would be your opinion as to the effect that the votes should have upon the judgment of the members of this Convention?

Dr. DAVENPORT. I think the members have to take those things into consideration as to how serious that vote was.

Mr. LOHMAN (Cook). As a general proposition, Doctor, you believe that the people use good judgment in electing their representatives and voting upon public policy questions?

Dr. DAVENPORT. Sometimes they do and sometimes they get mixed up.

Mr. LOHMAN (Cook). But don't you think as a general proposition they do?

Dr. DAVENPORT. If we do not admit that, we have to say our form of government is bound to fall.

Mr. LOHMAN (Cook). On last November in Chicago we had a public policy ballot containing six bond issues for public improvements that carried by about 100,000; just following the bond issues was a proposition for a non-partisan election of aldermen that carried by about 30,000; just following that was a redistricting of the city into fifty wards; that was defeated by about 10,000; following that there was a proposition for a two or four term for aldermen; that was defeated, that is, the four year term was defeated by about 100,000; and following that there were several Cook county propositions, public improvements; and following the Cook county propositions were the Initative and Referendum; those propositions carried as you have heard, in Cook county, very heavily. Professor, I come from a district that we call a Democratic district, and I was elected in that district as a Republican. The Initiative and Referendum was given considerable advertising in Chicago, and I believe all of the Cook county delegates, probably all through the State, were asked their views on Initiative and Referendum as to whether or not they would stand by the vote of their district. I have a copy of a letter I wrote to the Initiative and Referendum and Gateway Amendment League on October 1st, and if you will pardon me I will read you the letter:

"As a candidate for the Constitutional Convention from the 21st Senatorial District, I feel that the following statement of my position is due the public.

"On matters on which the people have had no opportunity to express themselves, I believe it to be the duty of the representative to exercise his best judgment and to act in what he believes to be the public interest.

"A new issue, however, is presented by the fact that the public policy law is being used to secure a direct expression of the people upon three questions at the coming November election.

"These questions are the Initiative and Referendum, the Gateway amendment and a proposal increasing the freedom of cities and other po-

litical subdivisions, in dealing as they see fit with their public utility problems.

"If the people of my district wish me, in case of my election, to vote against these three measures, they should give expression to this sentiment by themselves going to the polls on November 4th, next, and voting against them. It would be manifestly unfair to expect me to vote against these measures in the Convention if the people of my district do not vote against them at the polls.

"If these measures are carried at the November election, it seems to me that I am bound to accept such a vote as a legitimate expression of the will of my constituents, and no one could vote against the known will of his constituents and be a worthy standard bearer of the party of Abraham Lincoln. Very cordially yours, George F. Lohman."

Do you think, when the proposal comes upon the floor of this Convention, I should vote for or against the Initiative and Referendum?

Dr. DAVENPORT. Did it carry in your district?

Mr. LOHMAN (Cook). It carried.

Dr. DAVENPORT. I think you are in a difficult position. I would not want to be in that position. I would refuse to be a delegate and enter into a discussion of a complicated question on which I knew the constituency could not be informed and be bound by their vote taken in advance upon questions upon which they could not intelligently express themselves. On other questions, like the local option, I would be bound by it, but I would not tie my hands and be bound by their vote when I knew that they did not have sufficient information when they took that vote.

Mr. LOHMAN (Cook). I received about 6,000 votes in that district, and I think the Initiative and Referendum received nearer 15,000 and I think that is a very good expression of what the people want in that district, and I for one am going to carry out the wishes of the people of that district. (Applause.)

Mr. O'BRIEN (Cook). Mention was made of the fact that little or no effort was made in opposition to the Initiative and Referendum; isn't it a fact that the farmers journals in this State advocated very strongly the defeat of the Initiative and Referendum?

Dr. DAVENPORT. I am sorry to say I do not read the papers as thoroughly as I ought to; I understand that the farm journals have been against it.

Mr. O'BRIEN (Cook). That would indicate there was some activity against it?

Dr. DAVENPORT. I understand so.

Mr. SUTHERLAND (Cook). Dean Davenport, the distinguished delegate who spoke a few moments ago stated various propositions which were voted upon on our so-called little ballot in Chicago at the election last November. The nature of the propositions were largely those affecting public improvements, bond issues and so forth. Would you think, under those circumstances, that the public officials generally would be interested in having those propositions approved and the ballots generally voted upon?

Dr. DAVENPORT. I don't know as I get the force of your question.

Mr. SUTHERLAND (Cook). The propositions on the ballot as stated by the delegate a moment ago were largely in the nature of bond issues for public improvements. Would you think or would you not think that naturally the public officials in general, would desire to have a large vote cast on those questions?

Dr. DAVENPORT. The issue of bonds by a municipality seems to be wholly a local question.

Mr. SUTHERLAND (Cook). What I want to get is this, would you naturally infer that on a large number of bond issues that the public officials who were expecting to use the proceeds of those bond issues would want the people to vote on them?

Dr. DAVENPORT. I assume that the legislative body doing business in a city like Chicago under hard conditions for money would be glad to have their acts endorsed before they proceeded with the work, and if they wanted it done, I assume they would.

Mr. SUTHERLAND (Cook). And those public officials are generally alive through political ramifications, through the election machinery?

Dr. DAVENPORT. I guess those in office are.

Mr. SUTHERLAND (Cook). There would be no incentive whatever for election officials to try to hold back those ballots and try to keep the people from voting on them?

Dr. DAVENPORT. I think the public officials in hard times will get rid of all the responsibility they can.

Mr. SUTHERLAND (Cook). They would generally under those circumstances be particularly anxious to have those questions voted on, would they not?

Dr. DAVENPORT. A public official is anxious to know how his constituency feels at all times.

Mr. SUTHERLAND (Cook). Can you see how any official could have any pressure brought on him to hold back those ballots, isn't it a natural inference that he would want the bond issue to succeed?

Dr. DAVENPORT. Yes.

Mr. SUTHERLAND (Cook). A morning paper which had been the leading advocate of the Initiative and Referendum on the morning of election carried in a flaring headline across the top of the front page a warning to voters that there was a conspiracy to keep them from having the little ballot so they cauld vote on the Initiative and Referendum; would you think that was a good fair argument to put before the voters on election morning?

Dr. DAVENPORT. I don't think so, no, sir.

Mr. SUTHERLAND (Cook). Would not that tend to create a false idea of the situation?

Dr. DAVENPORT. You do not get an intelligent vote except on clean cut issues.

Mr. SUTHERLAND (Cook). That was a sample of the argument used by the Chicago paper of which I speak.

Mr. CORCORAN (Cook). You do not mean to infer from that that the judges of election in the City of Chicago withheld the small ballot from anybody, do you?

Mr. SUTHERLAND (Cook). I don't; I think the insinuation was an insult to the entire election machinery of Cook county and was wholly unwarranted. My question was directed to the fallacy and the unreasonableness of that statement, because if there was going to be any influence on public officials it would be the other way. The warning was, "Be sure to get your Initiative and Referendum ballot; there is a conspiracy on among election officials to keep you from having that ballot." The tendency among all public officials would be to have those voted on freely.

Mr. LINDLY (Bond). I move this committee now recess until four o'clock. There are other speakers to be heard and if this meeting continues until half past twelve or one o'clock we will not be able to get back to our committee meetings at one-thirty, so it seems to me a wise thing to do to have the committee meetings after what was said yesterday.

Mr. DUNLAP (Champaign). Will you withdraw your motion until I ask just one or two questions?

Mr. LINDLY (Bond). Yes.

Mr. DUNLAP (Champaign). Doctor Davenport, you made a statement that you thought most of the agricultural papers were opposed to the Initiative and Referendum in their comments on that question, is that the truth?

Dr. DAVENPORT. That is my understanding; I have not followed it close enough to know.

Mr. DUNLAP (Champaign). These agricultural papers, while published in Chicago, circulate down State?

Dr. DAVENPORT. Yes, mostly.

Mr. DUNLAP (Champaign). Is it not true that the Chicago papers also circulate down State?

Dr. DAVENPORT. Yes.

Mr. DUNLAP (Champaign). And they were generally for the Initiative and Referendum or at least were not against, and that the vote down State, the majority, was considerably against the Initiative and Referendum, that is true?

Dr. DAVENPORT. That is what I have been told.

Mr. DUNLAP (Champaign). Do you think if the people of Chicago would have subscribed for these agricultural papers and had had this information that they would have voted more intelligently on this proposition?

Dr. DAVENPORT. I don't know. At least they would be good reading.

Mr. DEYOUNG (Cook). Do you believe that the average voter is more competent to vote correctly for a candidate than upon a measure?

Dr. DAVENPORT. Very much more.

Mr. DEYOUNG (Cook). In Judge McEwen's district, for instance, I understand the public policy question on the Initiative and Referendum carried by a large vote?

Mr. MCEWEN (Cook). By 9,000 plurality.

Mr. DEYOUNG (Cook). Judge McEwen said he would not be bound by the vote; his opponent said he would, and yet despite the 9,000 plurality for the Initiative and Referendum, the voters in that district voted for Judge McEwen by a 5,000 vote, so that the voters exercised in your opinion a better judgment in electing Judge McEwen to this Convention than they did in expressing themselves upon the Initiative and Referendum?

Dr. DAVENPORT. They evidently knew more about Judge McEwen than they did about the Initiative and Referendum.

Mr. DEYOUNG (Cook). If that conclusion does not follow, it necessarily follows that the vote upon the successful candidate and the I. and R. would not be opposed to one another; that is the other conclusion?

Dr. DAVENPORT. Yes.

Mr. DEYOUNG (Cook). In the State of Ohio last November there were three questions submitted to the electorate of the State affecting the liquor question. You are advised, are you not, how they voted?

Dr. DAVENPORT. No, I am not advised.

Mr. DEYOUNG (Cook). There were three questions; one was the ratification of the Federal prohibition amendment; the other one was State prohibition and the third was the enforcement of the State prohibition; upon the first, the Federal prohibition they voted against it; upon the second, State prohibition they voted for it; upon the third, State enforcement, they voted against it, on the same day and the same State and by the same voters; that is a sample of the discrimination exercised.

Dr. DAVENPORT. I am not surprised at that.

I feel like begging your pardon for standing before you so long. I thank you. (Applause.)

Mr. LINDLY (Bond). I again move that we adjourn until four o'clock. (Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole until Wednesday, March 31, 1920, at four o'clock p. m.

4:00 O'CLOCK P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Dove presiding.

CHAIRMAN DOVE. The committee will please be in order. We will resume our session. May I call attention first to the fact that there are no proposals introduced in this Convention or pending before any of its committees with reference to the recall of judges or the recall of decisions, and may I state to the members that we have three speakers and I indulge in the hope we will be able to adjourn without the necessity of a night session.

It is impossible to speak too highly of the influence exercised by the farm journals; foremost in this field is the Prairie Farmer, with a circulation of more than 120,000 copies weekly. Mr. Clifford V. Gregory is the editor of that splendid farm paper and he has honored us with his presence here today, and will speak to us now.

Mr. GREGORY. Mr. Chairman and gentlemen of the committee: I do not want to take very long this afternoon, and I do not propose to enter into any discussion on the theory of the Initiative and Referendum, but simply to run over as briefly as possible some of the reasons why the farmers of the State of Illinois are not in favor of the Initiative and Referendum.

I do not think it is necessary to bring forward much proof that they are not in favor of these measures. The vote on the public policy questions last fall ought to be evidence enough that the farmers are not in favor of the Initiative and Referendum. The measure was lost outside of Cook county by a considerable majority. In a good many strictly rural voting precincts there were hardly more votes in favor of the proposition than fingers on one hand. Why are not the farmers of Illinois in favor of these propositions? In the first place, because they do not see any necessity for this method of direct legislation. Farmers are in a minority in the State of Illinois, in a considerable minority. We can never be a controlling force in the State of Illinois by virtue of our voting strength; we can never hope to have a majority in the legislature of Illinois. Notwithstanding that fact, the farmers of Illinois have not found it difficult to go before the legislature and present propositions and to secure favorable consideration to every proposition that they have brought up; not only favorable consideration, but in most cases favorable action.

They are pretty well organized, and they came before the legislature last winter with quite a program, a considerable number of measures that they advocated; with one exception all the measures were enacted into law, and that one exception was the State police bill. If we had had in Illinois the Initiative and Referendum, I do not consider it possible that the farmers would have availed themselves of the Initiative to have brought about the enactment of the police bill into law, for this reason: we recognize fully that public sentiment was not ripe for that measure and we feel that is the reason it did not pass in the legislature. We feel that next winter or two years from then, or ultimately, we will get some sort of State police bill, but we will work through the legislature of the State of Illinois, and we believe firmly when the majority of the people of Illinois are in favor of a system of State police, that it will be possible to get the legislature of the State of Illinois to provide for such a system. In the meantime we will defend our chicken houses with a shot gun as in the past and get along pretty well.

We are not in favor of the Initiative and Referendum because we feel if we had the I. and R. in Illinois it would make it necessary for us to do two things: In the first place, to provide at once a large defense fund; in the second place, to provide some large fund to use for the enactment of such measures as we wish enacted into law. There has grown up in Illinois a great evil in connection with the election of public officers, and that evil is the large amount of money that is required of a candidate for office, and I am not inferring in any way that this money is corruptly used, but those of you who have run for office, and of course all of you have, I am sure you know that when a man announces himself for an office of any consequence that he at once becomes a meal ticket for a good many of the newspapers and the political workers in his district; he is expected to contribute to this, that or the other. If he takes an automobile trip in his district and he stops in some town, some paper, it may not even belong to his own party, will say that Mr. Jones passed through town in the interest of his campaign, and in a few days he will get a bill for $8.47. The result is that when a man runs for an office of consequence it involves the expenditure of money, and that keeps poor men from running for office. Some do, but if they do they must depend upon a campaign fund contributed to by others, and in the majority of cases there are certain strings tied to those contributions, and if not there is always that possibility. The man who wishes to be independent in his political actions hesitates to run for office unless he can finance his own campaign. We have a situation in Illinois now where we are beginning to wonder who is going to be our next Governor. We expect our present Governor to be promoted, and we

are wondering who is going to be the next Governor. There are a number of worthy men who have been mentioned for the office of Governor, but who are out of the running because they cannot finance their campaigns. A man must have a war chest of $200,000 before he can begin to think of running for the office of Governor of Illinois.

We believe the enactment of the I. and R. will put the law in the same category as running for office is now. These men who wish measures enacted into law will have to be prepared to finance in a liberal way a campaign to put these measures over. Men affected by adverse legislation will have to put up money and have it recalled if such legislation is enacted into law. The farmers are very well organized. If the I. and R. passes we will be ready with the war chest to put up the necessary money to conduct a campaign to prevent adverse legislation and to secure the enactment of such legislation as we deem desirable. We do not want to do that. We want to use our money for constructive work. We believe the legislation should be made in this chamber and the chamber across the hall and should not be the subject of a State-wide campaign, under which laws cannot be independently passed or defeated until some one conducts a very expensive educational campaign to get the great mass of voters of Illinois in possession of the same information that the members of the legislature receive as they consider those measures. We are not at all afraid of the people. We do not believe for a minute that the judgment of the people is faulty, provided that the voter has a chance to consider a measure carefully, but we do believe it is impossible without the expenditure of immense sums of money to get the average voter to understand a measure fully so he can vote intelligently on the merits of the many measures that are likely to come before him under this plan.

We have been told in public hearings that the I. and R. first originated with farmers, with the grange, that the farmers in other States are in favor of the I and R. We have in Illinois a situation vastly different from the situation in the great agricultural States of the Northwest. Those States have an agricultural population that is greatly in the majority. They do not have the large City of Chicago, and Cook county, with its three and one-half millions, almost half the population to be contended with. We do have that to contend with and we are afraid of it. We are not afraid of talking over frankly with the representatives of Cook county the measures which we advocate, but we are afraid of the tremendous task of educating those three and one-half millions of Cook county voters which can only be done by the expenditure of tremendous amounts of money and time.

Most of you know that the people of Cook county are considerably prejudiced against agriculture. The average man on the street in Chicago, when he pays 65 cents a pound for bacon, thinks that the farmer gets all of it. I was talking last week with a member of the Real Estate Board and he told me his living expense for last year was $10,000. He said, "If I was out on the farm, I could save at least threefourths of that." I told him he could not raise theatre tickets and fur coats on the farm any more than he could in Chicago; he thought he could, which only goes to show the prejudice and ignorance of the people who live in the cities against agriculture. They do not understand the thing fully and it is a big job to make them understand it.

Now, I want to mention a few concrete cases: We have had introduced into the legislature of Illinois at every session I can remember a bill making it illegal to kill a calf until it is two years old. Now, the people who favor that measure, and it was favored by a good many of the Cook county members, until they understand it—but the people do not understand that about half the cattle in Illinois are dairy cattle; they are not good for beef, and unless you do kill a calf when it is a few months old its value as beef is gone, because most of the food goes to make up tallow, bone and gristle that you cannot eat. It would be easy for the women's clubs or the people interested in reducing the high cost of living to secure 100,000 signers to a measure providing that no calves in the State of Illinois should be slaughtered until they are two years old, and it will take at least

$50,000 to make sure that such a measure should be defeated on popular vote, because it is an appealing thing. They can cite the number of calves and give the number of pounds of beef that will be saved if they are allowed to go to two years old. It would be easy to secure in Chicago a petition for a bill providing that milk should not be more than two cents a quart. Consumers do not seem to understand that if the cost of milk goes down below the cost of production that the farmer would quit milking cows, but most anybody would sign that kind of a petition. That is the kind of measures we fear under the I. and R.

We also fear that meritorious measures could be defeated or held up under the referendum. A good deal of the produce raised in certain parts of Illinois is sold on South Water street in Chicago. A great many evils have grown up in connection with the South Water street market and a great deal of crookedness. The farmers of Illinois tried for three sessions to secure the enactment of a measure requiring the regulation of the South Water street commission merchants. At the first session the bill was voted down with very little ceremony; on the second session it was defeated in a way that would justify an appeal to the Initiative if anything ever would, but the farmers came back last winter and secured the enactment of that measure, and it is now law. This bill affects the merchants of South Water street very materially. It would have been a simple matter for the merchants of South Water street to raise a fund and secure a petition to hold up this law, and it would be a difficult matter for the farmers to educate the people of Chicago and the whole State of Illinois to the point where they would defeat that referendum and allow the measure to become a law.

We passed last winter the pure seed bill to prevent the distribution of grass seed containing large amounts of weed seed. The prairies of Illinois for years have been seeded to weeds by unscrupulous seedsmen sending out seeds heavily invested with noxious weeds. Last winter it was proposed by the Illinois Agricultural Association and defeated—no, I am wrong about that, I think it passed and was declared unconstitutional—last winter the measure went through, and is now the law. It was very bitterly fought by the seed companies. There is no doubt if the Initiative and Referendum existed the seed companies would have appealed to it and they could have done it, because they sell those seeds through local dealers and they could have secured the number of signatures without much difficulty and they could have possibly defeated it completely. That particular law is one of the best illustrations I know of for this reason, that with one single exception all the seed companies which fought it are in favor of it. With one single exception they will tell you that this pure seed law is a good thing. After they have had one winter's experience with it they admit it is a good thing, and it has checked to a great extent the distribution of noxious weed seed.

Now, there is another class of legislation under which the referendum might be invoked, and that would be still more difficult than these classes I have mentioned to educate the people, and that is laws that are somewhat technical. Senator Dunlap introduced a bill last winter designed to prevent the importation into Illinois of nursery stock which is infested with diseases or insects. We have a tremendous loss each year due to insects and diseases, and this was to prevent the bringing of those evils into the State. The farmers did not know much about it; it is a technical bill and something that they would not be very well informed about. It would be almost impossible to educate the electorate, yet I am convinced that this bill would have been appealed to the people under the referendum, because it affected the nursery companies that ship in nursery stock, and they could have submitted this bill to the people and we could not get it through for years. You cannot get the average man interested in a matter of this kind; a scale on an apple tree does not interest the average man; it is almost impossible to get action on that sort of thing.

There is another fundamental objection from our standpoint. We had two bills last winter, both of them drawn by men who were supposed to understand the matter thoroughly. One of them was a veterinary practice

bill which provided that before a man could give a worm pill to his own pigs he would have to take out a license and pay a fee to the State, and the other bill was that before the farmer could bury a dead animal he would have to take out a license and pay a license fee. These bad features in the bills were put in unwittingly, they were not put in purposely, but if they had been enacted with those things in, it would have been necessary to repeal that section of the law. We needed a new veterinary practice act and a new rendering plant act. It was not difficult for the farmers to go before the committee and convince the committee that these two sections should be taken out of the bills and they were taken out, but when a bill is written under the Initiative we cannot hope that the bill under the Initiative would be written with more intelligence and thought than was given to these bills before they were written. If those bills were written under the Initiative and the petition signed there would have been no easy way to change them, but they would have gone to the people and it would have been necessary to defeat them. They would have to be defeated and it would be necessary to come back at some later date with an entirely new bill.

The Initiative does not give that opportunity for mature consideration, for studying the matter over in committee and on the floor that obtains in the legislature.

Those briefly are some of the practical reasons why the farmers of Illinois would rather rest their case with the legislature than to leave the enactment of legislation or the veto power on legislation with the electorate of the State of Illinois. (Applause.)

Mr. WOLFF (Cook). Do I understand you to say that the farmers of this State are in a different position than the farmers in other States?

Mr. GREGORY. Yes, I made that statement, due to the fact they are in the minority for one thing, and the fact we have the City of Chicago, which is so far removed from the farm, and it is so difficult to educate them as to matters pertaining to the farm.

Mr. WOLFF (Cook). In other words, you think if the farmers were in the majority as in North and South Dakotas it would be a good law?

Mr. GREGORY. No, it would be less objectionable, because I feel it would not be so difficult to educate people and to get them to understand the fundamental principles affecting agriculture.

Mr. WOLFF (Cook). Did you ever have any experience in getting petitions signed on down State affairs in the City of Chicago?

Mr. GREGORY. No.

Mr. WOLFF (Cook). In your opinion, from what you said, it is rather easy to get petitions signed.

Mr. GREGORY. Well, at the time the public policy question was up last fall I observed a good deal of that and I noted that the nice looking young ladies had no difficulty in getting practically every man that went along the street to sign.

Mr. WOLFF (Cook). That did not hold good on women suffrage, when they could not get 100,000 throughout the entire State. To show you how difficult it is to get petitions signed, if I were to inform you that Mr. Slusser, who was one of the merchants on South Water street and owner of a commission business, also president of the South Chicago Business Men's Association, made a talk for one hour on the very proposition that you suggest, that you succeeded in passing the last legislature, in spite of the fact he was president of this association for a number of years, and at the time he appealed to them was chairman of the board of directors, failed to receive 25 signatures from 200 business men, would you still think the people of Chicago are prejudiced against the farmers of Illinois?

Mr. GREGORY. I am familiar with the people of Chicago.

Mr. WOLFF (Cook). He said at that time to his associates and business men that the farmers would have the bill in the legislature and it looked as if it would pass, and if passed it would be injurious to the commission merchants in Chicago, and he appealed to his associates to sign

his petition so they could present their case, and after talking for one hour he was unable to get 20 signatures out of 200 business men.

Mr. GREGORY. He should have secured the services of some expert in getting petitions signed. We had in northern Illinois a notorious cow dealer who sold tuberculous cows in violation of laws over the State of Illinois. His name was James Dorsey; he was brought in before Judge Landis and sent to Fort Leavenworth. Some of Dorsey's friends came here and secured the signatures of half of the members of the legislature on his pardon petition. I talked personally to a large number of men that signed that petition and they told me that they did not know what they were signing.

Mr. WOLFF (Cook). I am talking about petitions in Chicago and you are talking about petitions not existing in Chicago. I ask you now if you think that that indicated that Mr. Slusser, the former president of the South Chicago Business Men's Association, when he was not able to receive 25 signatures, whether that indicated the people were prejudiced against the farmer?

Mr. GREGORY. I think it indicated that he did not go at it in the right way.

Mr. WOLFF (Cook). Yes, he did.

The business men said that was a matter for the legislature entirely and they did not care to sign the petition, and they did not sign it.

Mr. GREGORY. South Water street is none too popular in Chicago, either.

Mr. WOLFF (Cook). You said also in the legislature before the last by a trick in the legislature you lost your bill, did I understand you right?

Mr. GREGORY. Yes.

Mr. WOLFF (Cook). Do you have the same opinion of the legislature now that you had then?

Mr. GREGORY. That did not materially change our opinion of the legislature because this was the procedure. I will go ahead and explain a little bit. That bill was lost because in the rush of business the last night the bill itself was mislaid, a thing that has often happened. Those of you who have been members of the legislature know that bills are often mislaid the last night and defeated in that way. We regretted that, but we would not appeal to the Initiative and Referendum to correct that condition. We would rather wait and get enough sentiment so the next session it would pass the legislature.

Mr. WOLFF (Cook). Your principal objection is that the farmers are in the minority and not in the majority?

Mr. GREGORY. Our principal objection is it would make it necessary to raise an immense sum of money to get legislation under the Initiative and Referendum.

Mr. MICHAL (Cook). The farmers of the State of Illinois have been receiving pretty good care and consideration at the hands of the General Assembly, have they not?

Mr. GREGORY. We are very well satisfied.

Mr. MICHAL (Cook). And particularly with regard to Senate Bill number 573, passed at the last session of the legislature with reference to amending the conspiracy section?

Mr. GREGORY. We asked for the enactment of that bill and were naturally pleased when it became a law.

Mr. MICHAL (Cook). By the elimination from the conspiracy section then in operation, prior to the enactment of this act, it was deemed a conspiracy to get together and raise prices on commodities, for instance milk, is that right?

Mr. GREGORY. We are ready to defend Senate Bill 573 here or anywhere else.

Mr. MICHAL (Cook). It tended to that effect didn't it?

Mr. GREGORY. Yes, I would say it does.

Mr. MICHAL (Cook). In other words this law that you had passed just absolutely put it in your power, in the power of the dairy farmers, for instance, to raise the price of milk?

Mr. GREGORY. I might say in answer to that the people of Chicago are now consuming milk at less than it costs to produce it.

Mr. MICHAL (Cook). These dairy men can get safely together under the amended conspiracy section and enforce any reasonable or unreasonable rate or charge for milk, can't they? If they want to be unreasonable they can do it, can't they?

Mr. GREGORY. I don't know whether they can or not. I do not think you will find it, because farmers are pretty reasonable people, as a rule.

Mr. MICHAL (Cook). I will read you the act. (Reading.)

In other words, what I am trying to get at is, that this is manifestly a vicious piece of legislation, and it is my idea that if we had the initiative and referendum——

Mr. DUNLAP (Champaign). I rise to a point of order. I suggest if we are going to have a discussion of some law enacted by the legislature, that those who favor such a law should be heard upon a proposition. This is a hearing on the Initiative and Referendum, and the matter referred to by the honorable delegate from Cook (Michal) is a matter that can be very practically, and I think to the satisfaction of all, justified, but there is no time for that at this time, and I protest that the discussion of that matter now is not in order. If he desires to ask questions relating to the matter under discussion, of course he has a perfect right to do that.

CHAIRMAN DOVE. The point of order is well taken, and the members will please confine themselves to statements of the speakers.

Mr. MICHAL (Cook). Do you mean to contend that a majority of the farmers of this State were in favor of the passage of this act?

Mr. GREGORY. We convinced the majority of the General Assembly that this was a just bill and they passed it for that reason.

Mr. MICHAL (Cook). When you say "we" who do you mean?

Mr. GREGORY. The Illinois Agricultural Association.

Mr. MICHAL (Cook). Have you taken a poll of your organization as to the advisability of the passage of this act?

Mr. GREGORY. We have not.

Mr. CORCORAN (Cook). You stated the people were consuming milk at a less price than the cost of production; is 18 cents a pint less than the cost of production?

Mr. GREGORY. You are getting stung if you are paying that. The farmers are not getting that.

Mr. CORCORAN (Cook). That is what I am paying.

Mr. GREGORY. Then you are not a good buyer.

Mr. MICHAELSON (Cook). I would like to ask the gentleman as to whether he thinks that the people of Illinois can vote with sufficient intelligence upon the approval or disapproval of a Constitution which may emanate from this Convention when presented to them for their action?

Mr. GREGORY. I hope they will be able to do so. I think the people of the State of Illinois have the capacity to act intelligently upon any measure which is presented to them, but there is a vast difference between having the capacity to do a thing and having the time and the interest necessary to do that thing. I think in the case of the Constitution they will act with a fair degree of intelligence for the reason this occurs but once in fifty years probably, and it is afforded more publicity and there is more chance for the people to get it and study it than could be afforded if the great man of legislative action were thrown open to study by the people.

Mr. MICHAELSON (Cook). Have you any idea how the people are going to get light upon the questions in the Constitution?

Mr. GREGORY. I imagine that this Convention will see that copies of the Constitution are quite generally distributed among the voters. I imagine that the members of the Convention will take a great deal of interest and spend a great deal of time in explaining to the people the points in the new Constitution. I imagine also that the newspapers of the State will discuss it quite fully.

Mr. MICHAELSON (Cook). Do you think the people of your own particular community have intelligence enough to act intelligently upon any question submitted to them for their approval or disapproval?

Mr. GREGORY. The people of any community have intelligence enough to act on anything which they understand.

Mr. MICHAELSON (Cook). I am asking you if you consider them capable of voting intelligently upon a question that is put to them upon a ballot at election?

Mr. GREGORY. I have answered the question.

Mr. MICHAELSON (Cook). Do you believe the people of your community are competent to vote intelligently upon any question submitted to them upon a ballot?

Mr. GREGORY. I have answered the question twice and I will answer it again and try to make myself perfectly clear. I have no fear whatever of the intelligence or competency of the people of the State of Illinois, but I do know that no matter how competent or intelligent a man is, he cannot act intelligently unless he takes time to study a proposition. The more abstract it is the more thorough the study required, and I have not the slightest confidence that the people of Illinois will study very many measures that will be submitted to them on a referendum.

Mr. MICHAELSON (Cook). Do they now on measures that come before them? We can only judge the future by the past. Take any question submitted to the voters in your community; have they taken the time to study that particular question or not?

Mr. GREGORY. I think the people of the State of Illinois outside of Chicago acted quite intelligently upon the I. & R. proposition last fall. (Applause.)

Mr. MICHAELSON (Cook). Of course you would not allow that same amount of intelligence to be spread over Cook county as the result of their action; that what is true in one direction is not true conversely, that the people of Cook county because they voted for the I. & R. acted without intelligence, is that true?

Mr. GREGORY. I do not wish to commit myself on that except to make this statement, that I do not think the I. & R. was nearly so thoroughly discussed or understood in Cook county as generally stated.

Mr. MICHAELSON (Cook). I think it was, but you have not yet answered the question that I am propounding to you, and that was this, have the people in your community at any time that a proposition has been referred to them acted intelligently and with capacity upon that question, any question?

Mr. GREGORY. I will give you an illustration.

Mr. MICHAELSON. (Cook). Just give me a yes or no, it can be answered yes or no.

Mr. GREGORY. I will give you an illustration..

Mr. MICHAELSON (Cook). I want an answer.

Mr. GREGORY. I won't give you one.

Mr. MICHAELSON (Cook). Thank you.

Mr. GREGORY. I will give you an illustration. If I were subjected to trial by jury, I would with every confidence submit my fate to the decision of that jury, but I would not subject that to referendum vote of the people of the community who did not hear the evidence. (Applause.)

Mr. McEWEN (Cook). Would you tell us how many farmers are in the organization that you have referred to?

Mr. GREGORY. Sixty-four thousand and some odd.

Mr. McEWEN (Cook). Are many farmers eligible to membership in that organization within the State of Illinois?

Mr. GREGORY. The entire number in the State of Illinois I don't know off hand how many that is, probably 200,000.

Mr. McEWEN (Cook). Outside of the City of Chicago, what percentage or proportion of the voters are farmers and what might be called residents of industrial communities and cities and villages, how would you divide it?

Mr. GREGORY. I would guess roughly about half and half outside of Cook County.

Mr. McEWEN (Cook). The men in the villages are strongly in sympathy with the farmers. There is quite a friendly relationship, is there not?

Mr. GREGORY. In most cases in the small communities the relation is cordial.

Mr. McEWEN (Cook). In larger cities where they are more of an industrial character the sympathy is less pronounced?

Mr. GREGORY. I don't want you to understand there is any particular antagonism toward the people of Chicago.

Mr. McEWEN (Cook). I presume we will hit that antagonism a little later, you are anticipating. What I was getting at was that the communities without the City of Chicago are pretty strongly inclined, whether on the farm or in the villages, are inclined towards the farming element and the farming needs. They exchange directly in trade and there is a strong close relationship, industrial, commercial and political?

Mr. GREGORY. They kick about the price of milk down the State, too.

Mr. McEWEN (Cook). And I suppose the farmer kicks about the stuff he buys in the village?

Mr. GREGORY. It doesn't do him any good.

Mr. McEWEN (Cook). The farmer is quite human.

Mr. GREGORY. We kick as much as anybody.

Mr. McEWEN (Cook). My father was a farmer and I was born on the farm, so I claim to have a human origin which ought to be recognized by any man down the State. Your first objection to the I. & R. is that the farmer does not need it. You are speaking from the view point of the farmers' interest; do you feel qualified to say that the residents of a large city like Chicago do not need it or might not properly invoke it?

Mr. GREGORY. I don't know. I want to make a statement right here; we have not made and will not make any threat or any statement that if our views are not enacted into the Constitution that we are going to defeat the Constitution. Some other groups have made such statements. We have the fullest confidence in this Convention. We want to give you our view point, and we expect to support fully the results of your work when it is finished. (Applause.)

Mr. McEWEN (Cook). I want to say that I think that is a fine civic spirit, and I am not asking you these questions simply to irritate somebody.

Mr. GREGORY. In answer to that other question, I am not competent to say whether the people of Cook County need it or not.

Mr. McEWEN (Cook). The legislature, you feel, is a forum to which the farmer can go and ultimately secure what he thinks he needs?

Mr. GREGORY. That has been our experience.

Mr. McEWEN (Cook). Do you think that he gets what he goes after because of his powerful voting strength?

Mr. GREGORY. I do not.

Mr. McEWEN (Cook). When you include in his voting strength his natural sympathetic friends in the cities and villages.

Mr. GREGORY. I do not. Of course that has something to do with it. A member of the legislature naturally expects to represent his constituents, but, as I said, farmers are greatly in the minority in Illinois. I believe, to use your expression that we receive what we go after more because we have made out a good case; we tell our story simply and plainly, tell them what we want, and it appealed to their good common sense.

Mr. McEWEN (Cook). I will take an illustration. You have availed yourself of illustrations—take the so-called Allen bill which permitted the granting of fifty year franchises, which was very bitterly opposed and a great deal of sentiment raised against it after its passage in Chicago. Would you say it would have been a very popular thing to have had such a bill as that subjected to a referendum?

Mr. GREGORY. I do not feel competent to answer the question; I was not in the State of Illinois when the Allen bill passed and I know almost nothing about the details of the case.

Mr. McEWEN (Cook). You would not say that a condition might not exist in which a referendum might be of some advantage to the people?

Mr. GREGORY. I will say I have been unable to imagine a condition affecting agriculture where a referendum would be an advantage.

Mr. McEWEN (Cook). Now, take the case of this law which has been read by my friend the delegate from Cook (Michal), that was secured at the instance of the farmers' committee, or executive board, or whatever it is that goes to the legislature and represents what the farmers are interested in, and that exempts farmers' organizations, fruit growers' associations, and I believe that takes in our friend from Champaign, does it not?

Mr. GREGORY. He needs protection the same as anyone else.

Mr. McEWEN (Cook). I have not changed my opinion since this morning. It exempts those associations from being conspirators in any matter relative to their products?

Mr. GREGORY. Yes, and the majority of the General Assembly believed it was just to make such exemption. We did not buy anybody on that bill.

Mr. McEWEN (Cook). I do not suppose you did such a thing; you do not need to get your defense in until I make a charge. You know what Shakespeare said, "He who defends himself not being accused accuses himself."

Mr. GREGORY. I judged, Judge McEwen, from the line of questioning you felt at least that the legislature did not represent the State of Illinois in passing that bill.

Mr. McEWEN (Cook). No, but I would think if this is a government of all the people and there is an equality running among all, then the farmers are not entitled to any more immunity in what they do than dealers in Chicago or manufacturers of the thousand and one things that are produced in Illinois where the manufacturers are members of associations. Of course, if you and I begin a debate on the comparative merits of a farmer as entitled to immunity as alongside of a manufacturer of lumber or furniture, a manufacturer of clay products or one hundred other things, of course we will never get through.

Mr. GREGORY. Let me give you in about three sentences the defense of that bill. The price of the Chicago milk supply has never been fixed by supply and demand. It was fixed for years by Borden's, Bowman's, and one or two other companies representing about three or four companies holding a little luncheon together and entering into a gentleman's agreement that the price of milk would be so and so; those are facts susceptible of proof. What did those 6,000 farmers that furnished that milk supply do? They could not meet in a little room and they could not enter into a gentleman's agreement as the three or four distributors could; consequently they believed there should be a legal means by which they could have something to say about the price of their product, and they have not been any harder on the City of Chicago in fixing the milk price than the distributors were when they fixed it.

Mr. McEWEN (Cook). I can appreciate the position of the farmer and I want to say I am not one who attacks the farmer or his supposed selfishness. I do insist that the farmer is not different from anybody else, and that he is not any better than some of us who live in Chicago. I claim equality with the farmer down the State, and aristocracy thereby. You seem to think that the people of Chicago are prejudiced against the farmer. You will remember that the Cook County grand jury indicted some farmers and dairymen in connection with the price raising connected with milk, and they had a long trial and both sides were ably represented by very able counsel, and after a trial of considerable length the farming elements were acquitted. There was a case where twelve jurors of the city said the farmers were all right, and that would indicate that those twelve men were not prejudiced and no doubt the State's Attorney did his best to get a fair jury.

Mr. GREGORY. Now, Judge, that illustrates my point exactly. I do not believe that the prejudice in the City of Chicago against agriculture is an inherent prejudice. It cost the men who produced milk for the City of Chicago $80,000 to convince those twelve jurymen, and I think if that same

evidence had been presented to any group of men in Chicago that they would have been convinced, but we are appalled at the big job we would have in educating those three and one-half million people to understand these things.

Mr. McEWEN (Cook). I want to ask you what you think of my proposition that I filed here, requiring the percentage of petition in fifty-two counties and requiring a majority vote in those fifty-two counties and a majority vote of the entire State on a State wide referendum; don't you think that makes a pretty safe and sure referendum upon which the farmer could sleep soundly at night?

Mr. GREGORY. If you would tack that fifty-two county proposition on to Judge Cutting's proposition we would not worry much; I think it would be safe.

Mr. McEWEN (Cook). Do you feel there is a state of disquiet or any popular demand of the people for an improvement or addition to our system of government which gives them some voice in the government. Do you feel that that demand should be recognized?

Mr. GREGORY. Judge, I will confess I am unable to see in the vote of the I. & R. last fall, even in Cook County, evidence of any overwhelming demand or any great unrest that might be cured by the I. & R.

Mr. McEWEN (Cook). May I remind you of the fact, that 22 states have adopted the I. & R., and may I remind you that the three great parties in 1912 all included in their platforms and endorsement of the I. & R. May I remind you that every time it has been submitted to the State of Illinois, and I think it is three times, it has been carried; and in the face of that do you still say that you cannot see any demand upon the masses of this country or this State or any locality in the State for the I. & R.?

Mr. GREGORY. Answering the last part of your question first, the evidence of the three votes on the proposition in Illinois, I do not consider that the very small percentage of the total vote of the State which was cast in favor of those propositions is evidence of an overwhelming demand. I will grant it is evidence of some demand, but I cannot construe that as an overwhelming demand.

Mr. McEWEN (Cook). Do you feel that there is any danger in this country of there being such organization brought about throughout this country of the workers and industries in this country that a general strike could be called and all industries cease?

Mr. GREGORY. I don't know that I am competent to answer that question fully, but frankly I have very little fear of that.

Mr. McEWEN (Cook). And you have no fear of great popular uprisings of the masses wherever there is opportunity, such as in the great cities, and a demand for a direct participation in government?

Mr. GREGORY. Not any great fear. Judge, here is the thing I fear most of anything else in this country at this time: Considering the extremely alarming labor condition in the country, considering the extremely low rate of return in agriculture compared with the return in industry and the wages paid in industry, the thing I fear most of all is that this year or next year or the year after we are not going to produce enough food for our people. Frankly, that is the biggest danger in our country right now.

Mr. McEWEN (Cook). When that day does come, all that which may be under the surface today will come to the top, will it not, the feeling in the mass struggling for expression?

Mr. GREGORY. It might come to the top, but you cannot legislate corn out of the ground by the I. & R.

Mr. McEWEN (Cook). You don't get what I am leading to. What I am leading to is, do you not believe that such a situation exists in this country today that people ought to be more directly consulted in the matters of legislation, have a better opportunity of understanding, a better means of informing themselves, so that they can thereby find expression of their feelings and their emotion, their resentment at what they think is injustice to them; do you not feel it is desireable to bring about some such a condition of government, and thereby avert something, which repressed and

continued and smoldering increases the belief that the government has failed to bring justice to the mass of the people; do you not feel that we might better try to avert that than to let it run until the adverse day comes when it opens with an explosion?

Mr. GREGORY. I will answer the gist of that question, which I take it is, is there not a demand for a larger part in legislation on the part of the people. I will answer that question yes, and I will tell you how I would bring that about.

Mr. McEWEN (Cook). Before you do that——

Mr. GREGORY. My answer is not complete until I do that.

Mr. McEWEN (Cook). Well, go ahead.

Mr. GREGORY. Two members of this Convention from a certain county in Illinois went home last week and held in one of the rather large cities of Illinois a big public meeting, at which the women, the business men, the farmers, representatives of the labor union were present, a composite meeting of the entire community. The entire evening was spent in discussing matters coming up before this Convention, and you will find in that county a better and more unanimous spirit back of the work of this Convention than any other county in the State. That is the way I would cure the condition you mention.

Mr. McEWEN (Cook). That is a single instance of two delegates in the Convention.

Mr. GREGORY. Nothing will prevent any of the rest of you doing it.

Mr. McEWEN (Cook). You have misinterpreted my question. My question is whether we are not confronted with a responsibility here to provide something for popular expression as a substitute for popular fury; haven't we a responsibility that rests right upon us today that cannot be disposed of by a curl of the lip or by a snear or an assumption of superiority; haven't we got a real question here looking us right in the face; do you think we have or have not?

Mr. GREGORY. I think you have, but I don't have any such fear of so-called fury as you seem to have, and I don't believe that the cure for such unrest as exists is to be found in the chance of giving men a right to vote a little oftener. Let me elaborate a little bit. Suppose we have elements in this country that are very much dissatisfied with the course of legislative affairs, and we do have such minorities. My opinion is, if those same questions which caused their dissatisfaction were brought to popular vote and defeated, the same fury and difficulties would exist as existed before they came to a popular vote. My study of the action of these minorities convinces me in most instances they are not reasonable. In most cases they don't wish to be governed by the majority, and they will be no more satisfied to be governed by a majority than they are satisfied now to be governed by a majority expressing its view through the legislature.

Mr. McEWEN (Cook). It is your view that the masses of Chicago are not competent to be governed by the will of the majority?

Mr. GREGORY. Oh, no; I say this fury you speak of, in my opinion, does not permeate the mass of the people; it is a minority fury.

Mr. McEWEN (Cook). Do you think it arises out of any sense of injustice which individuals feel that they have not fairly received their fair portion for their work?

Mr. GREGORY. To some extent, but rather industrial injustice than governmental injustice.

Mr. McEWEN. Yes. You believe there is no dishonesty in the legislature to speak of?

Mr. GREGORY. Well now, Judge, let me explain that a little bit. You no doubt have heard stories as I have, and I have no reason to disbelieve them, that votes have been bought and sold in this chamber. I think the cases in which such action has influenced legislation have been comparatively few. I can cite you to an instance not so many years ago where a candidate for the legislature went out with two barrels of silver dollars and bought his election to the legislature, so that I don't believe that the electorate is free from the possibility of corruption any more than I believe

that the legislature is free from the possibility of corruption. I believe that only in very exceptional cases is the interest of the government affected in that way.

Mr. McEWEN (Cook). I asked you if you believed in the honesty of the legislature; you say no, not for the referendum.

Mr. GREGORY. Not from that standpoint.

Mr. McEWEN (Cook). You referred here to the bill that you lost through a mistake. It was mislaid. You referred to it at first as a trick. Now, was it a trick, or was it just casually mislaid, as we all know things are mislaid the last day of the legislature?

Mr. GREGORY. Well, Judge, bills have been a good many times casually mislaid on purpose.

Mr. McEWEN (Cook). And that is what you meant when you said it was casually mislaid?

Mr. GREGORY. The evidence seemed to indicate it was true in this case.

Mr. McEWEN (Cook). You wanted us to understand it was just mislaid casually on purpose, but you left out the "on purpose?"

Mr. GREGORY. That is our feeling. If any class of people has had occasion to invoke the initiative, we had it there. That bill should have gone through. The majority of the legislature was in favor of it.

Mr. McEWEN (Cook). Let me ask you whether the initiative upon that bill that you presented here, and which was argued and debated and considered fully and lost on the last day "casually by mistake," or by trick, as you first stated, take that bill and offer it as an initiative, requiring it to go to a referendum, if it did that once, wouldn't it be notice to the legislature there was no use of playing tricks and casually losing things on purpose, and wouldn't it be a good thing for the State of Illinois if the legislature knew that it could not play tricks and that it had to be reasonably square; don't you think it would be a good thing?

Mr. GREGORY. It might. Here is the point on that. We are interested in practical legislation. We brought that bill in again last winter, and we have a better law now than if it had been passed first. It went through a curing process and came out better than ever.

Mr. McEWEN (Cook). Bills come into the legislative hopper, and are dropped in from day to day, and never get through.

Mr. GREGORY. Undoubtedly.

Mr. McEWEN (Cook). And they are dropped in for a purpose, and they don't get through. Don't you believe that a referendum, which would permit even at considerable effort a referendum of a law, would be a most valuable thing as showing that the legislature was not final, and would it not produce a better grade of work from the legislature?

Mr. GREGORY. Personally I don't think so.

Mr. McEWEN (Cook). You think they would do just as well even if there wasn't an appeal. Do you think our trial courts would do just as well if there was no appeal from their decision?

Mr. GREGORY. I don't know anything about that. That is outside of my field.

Mr. McEWEN (Cook). Do you know of any power you can trust the human animal with, unlimited and without review, but what somebody will abuse it?

Mr. GREGORY. I will say no, but I will say further I think the power of the legislature is far from being unlimited.

Mr. McEWEN (Cook). You have very favorable experiences with the legislature, and they have had a great deal to do with forming your opinion. If they always lost your bill you would want a referendum, wouldn't you?

Mr. GREGORY. I cannot answer that, because I have watched the passage of other bills through the legislature and the defeat of other bills. As the legislature of Illinois is made up now, and has been made up since I have been familiar with it, I think the danger of the defeat of meritorious legislation session after session is too remote to be considered.

Mr. McEWEN (Cook). How long have you been attending the legislative sessions?

Mr. GREGORY. Three or four sessions.

Mr. McEWEN (Cook). How?

Mr. GREGORY. Three or four sessions.

Mr. McEWEN (Cook). Three or four; which is it?

Mr. GREGORY. Three I think; I don't remember exactly.

Mr. McEWEN (Cook). In all of those cases you have represented the association that you now represent?

Mr. GREGORY. Simply the last two.

Mr. McEWEN (Cook). Whom did you represent the first session?

Mr. GREGORY. I represented our publication.

Mr. McEWEN (Cook). Were they interested in publication?

Mr. GREGORY. From a news standpoint.

Mr. McEWEN (Cook). From what?

Mr. GREGORY. From the news standpoint.

Mr. McEWEN (Cook). And you were here as a representative for the purpose of getting news of the legislature, so that you have attended here three times. This conspiracy law which you had modified was put through on the last day of the session, was it not?

Mr. GREGORY. It was passed on the last day of the session. It was introduced about a week, eight days I believe, before the end of the session.

Mr. McEWEN (Cook). And it went through as one of the emergency speed bills that were on the calendar?

Mr. GREGORY. We got a good deal of speed behind it.

Mr. McEWEN (Cook). If you hadn't got it on the calendar, it would have been one of the "also rans," but because you could get the ear of somebody and get it on the calendar, you got it through; is that right?

Mr. GREGORY. I don't think we got it through because we secured the ear of any particularly influential member.

Mr. McEWEN (Cook). Without the ear of the legislature you could not have done it?

Mr. GREGORY. No.

Mr. McEWEN (Cook). If you had the unanimous vote of the legislature behind you, without getting it on the calendar, you would not have got your bill through, would you; you would have been told the calendar was too crowded?

Mr. GREGORY. Judge, I think the reason that bill got on the calendar was not because it had the ear of any particularly influental member, but because the agricultural committee was behind it, and naturally a committee being back of a bill, it can push the bill faster than an individual member as a rule.

Mr. McEWEN (Cook). Do you think if it had all the votes of all the legislature, you would have got that bill through if it had not got on the calendar?

Mr. GREGORY. Of course not; that is a matter of procedure.

Mr. McEWEN (Cook). That is self-evident. And you still think the farmer is entitled to do those things which another man may not do in the city regarding production, and the farmer be an innocent, respectable citizen and the man in the other line of production be a conspirator and a criminal; you still think there is that difference between a farmer and another producer in another line?

Mr. GREGORY. I will answer that question by saying yes, and I will elaborate it to this extent. The impression given by an affirmative answer is not a correct impression, and a correct impression cannot be given without entering into the entire merits of the amendment to the conspiracy bill, which will take too long to go into now. I don't regard the passage of the amendment to the Conspiracy Act, Senate Bill 573, as reprehensible in any degree. It went through only because a majority of the membership of both houses was convinced that it should go through. It will be repealed whenever the people of Chicago or anybody else can convince a majority of the legislature that it is bad legislation.

Mr. McEWEN (Cook). And if you had a referendum tacked on it, you fear it would be repealed?

Mr. GREGORY. It would be repealed unless we were in shape to spend perhaps a hundred thousand dollars to educate the people of the cities, the same as the Chicago jury was educated during the milk trial.

Mr. McEWEN (Cook). Don't you think it is worth while to educate the people of the City of Chicago to show the voters what would justify an obvious distinction, a class distinction, as to production, whereby one group are criminal and the other group are not, or apparently the same thing?

Mr. GREGORY. I think it is highly important.

Mr. McEWEN (Cook). Why would you object to referendum which would give you an opportunity to present that to the people of the city and let them understand that the farmer was entitled to that privilege?

Mr. GREGORY. For the reason an adequate production of food on the farms of Ilinois is of greater importance to the people of Chicago than the people on the farms, and the burden of letting the people in Chicago know that is not apparent. It is hard to carry salvation to people that don't want to be saved. When the women's clubs of Chicago are continually misrepresenting farmers—and I want to say the newspapers are not nearly so bad in that respect as they have been, they have taken a much different attitude—but speaking of the past, up until six or eight months ago, practically every agency of publicity in the City of Chicago has misrepresented agriculture time and again, making it almost impossible for the farmers, without millions at their command, to stem that tide.

Mr. McEWEN (Cook). Don't you think that the people of the City of Chicago depend upon the farmer, and that the farmer, almost to the same extent, depends upon the City of Chicago?

Mr. GREGORY. Absolutely.

Mr. McEWEN (Cook). And that it would be a good thing for the people of the city and the people of the farms to have a better understanding of one another and get along better together?

Mr. GREGORY. I would like to see them trade jobs for a year.

Mr. McEWEN (Cook). Well, I don't know but what some of us would do that. I don't know just what kind of a job you have, but I will see after the Committee of the Whole adjourns. But do you think it conduces to that understanding which is so necessary to the prosperity of this State, and Chicago, great as it is, and farms, great as they are, do you think it conduces to that good feeling and that understanding, to leave legislation like that unexplained, and do you know of any better way of explaining it than by the referendum?

Mr. GREGORY. I don't think one person out of a hundred in the City of Chicago knows that law is on the statute books. I don't think that particular law has anything to do with the state of mind in the City of Chicago.

Mr. McEWEN (Cook). Do you think the farmers know about it?

Mr. GREGORY. Probably half of them do; maybe not that many.

Mr. McEWEN (Cook). You may be sure that in every labor union meeting, and in every federation of labor meeting, before you are six months older, if it has not already been done, every working man in Chicago will know the discrimination that has been practised by the State legislature on the face of the statute book, apparently in favor of a class other than themselves.

Mr. GREGORY. Well, Judge, the labor people were the first people to be exempted from the conspiracy act.

Mr. McEWEN (Cook). Surely; one group wants it just the same as the other. That is what I say. I say some of the farmers are just as good and just as bad as we are, and we are just as good and just as bad as they are. Up there in that milk trial didn't you show you were entitled to membership in our union when men went out and made attempts to deliver milk and you tried to turn them back and tipped their wagons over in the ditch; didn't you show you were competent to a seat in a labor union? Certainly you are just as good as we are.

Mr. GREGORY. Judge, on the point of tipping over that milk, I am sorry you didn't get in touch with State's Attorney Hoyne, because he was searching for evidence.

Mr. McEWEN (Cook). I saw the account in the newspaper.

Mr. GREGORY. You can't believe all you see in the newspapers.

Mr. McEWEN (Cook). Well, I think with you and me it is a case of an immovable body meeting an irrestible force.

Mr. GREGORY. We are not going out and try to repudiate your work after it is done. We want you to do the best you can.

Mr. McEWEN (Cook). Personally I am for the farmers. My ancestors were farmers.

Mr. GREGORY. I don't want you to get the idea that we are seeking any unfair advantage. That law, on the face of it, looks so; I will admit that; but I am sure if you had before you the information that the members of the legislature had before them, you would act the same as they did.

Mr. DUNLAP (Champaign). I just want to ask two or three questions. I don't propose to go into the matter of the discussion of this Conspiracy Act, but I want to ask one or two questions with regard to that. Is it not true that the Conspiracy Act as it was on the statute books would prevent two farmers getting together and demanding certain prices or conspiring together to get a price for their milk or to appoint an agent to sell their milk for them?

Mr. GREGORY. Oh, it was absolutely air tight.

Mr. DUNLAP (Champaign). And they are seeking relief in order to market their product at a profit?

Mr. GREGORY. Seeking relief from an intolerable condition.

Mr. DUNLAP (Champaign). Isn't it true that the officers of their organization were indicted through the action of the State's attorney in the courts?

Mr. GREGORY. That is true.

Mr. DUNLAP (Champaign). For conspiracy. Now I don't wish to say anything more along that line. I think that shows on the face of it, and if there was time I would be very glad to discuss it, but you have been asked the question with regard to the Allen bill as an example in favor of the initiative and referendum—by the way, that was passed some twenty-five years ago, was it not?

Mr. GREGORY. I don't know.

Mr. DUNLAP (Champaign). So long ago that very few remember the time it was passed. I am sorry we don't have more recent enactment of the legislature to serve as an example, but the question was asked you if it would not have been better for the people of Chicago if they could have had the right to petition to have that matter referred to them to vote upon, and you replied you didn't know anything about that. Is it not true that the Allen bill was repealed at the next session of the legislature by an almost unanimous vote on the demand of the people of Chicago?

Mr. GREGORY. I will take your word for it, Senator, I don't know.

Mr. DUNLAP (Champaign). The Alton bill was repealed at the next session. Doesn't that indicate to you that the people had recourse through the legislature for or against any law, or the repeal of any act they believed unjust?

Mr. GREGORY. That is the point I tried to make, Senator. In my judgment a bad law can be repealed by the legislature almost as soon as it can be killed on referendum, a difference of a few months.

Mr. DUNLAP (Champaign). The Allen bill was repealed at the next election of members of the General Assembly?

Mr. GREGORY. Absolutely, and if they won't send back men that will express their wishes, we cannot depend upon them to reverse the decision on referendum.

Mr. LATCHFORD (Cook). Mr. Chairman, may I ask the gentleman a question? If I remember rightly, you said we can never hope to control the legislature of Illinois; did you make that statement?

Mr. GREGORY. I think so.

Mr. LATCHFORD (Cook). You have been very successful, have you not, in getting the legislation through that you desired to be enacted?

Mr. GREGORY. Not by any control of the legislature, however.

Mr. LATCHFORD (Cook). Let me ask you just one question more. What is the policy of the farm journals relative to curtailing the representation of Cook County in the legislature?

Mr. GREGORY. I don't know whether I can answer that or not, even in the case of our own paper. We never have discussed it very fully. I think, however, that we have gone on record in favor of curtailment somewhat similiar to New York. In reference to the other farm papers circulating in the State, I really don't remember.

Mr. MICHAELSON (Cook). I wish to ask a question regarding the remark made about the action of Mayor Thompson. Are you here, Mr. Gregory, defending profiteers in foodstuffs?

Mr. GREGORY. Not at all.

Mr. MICHAELSON (Cook). I merely asked that, Mr. Chairman, because if the gentleman is acquainted with the action of the Mayor of Chicago, it was directed against profiteers in foodstuffs and was in favor of the American people.

Mr. GREGORY. The effect would have been, however, Mr. Michaelson, to hit the farmer a good deal harder than the profiteer.

Mr. MICHAELSON (Cook). That is neither here nor there.

Mr. GREGORY. It is very strongly here when it takes away all our profit.

Mr. HULL (Cook) You have stated your paper has gone on record in favor of restricting Cook County. Have you considered the effect of any restriction upon the initiative and referendum?

Mr. GREGORY. I couldn't say.

Mr. HULL (Cook). You have not considered the possibility of any such legislation as has been suggested here today being unjust to the people of Chicago, so that they would be in a position where they could not get a proper hearing before the legislature and get justice in connection with any such legislation?

Mr. GREGORY. Here is the way I feel about that, Senator Hull. A restriction of representation has been suggested only in connection with Cook county. The people of Chicago and Cook county don't eat any more food per capita than the people of Peoria, East St. Louis, Quincy or Danville. When you talk about the fairness of representation before the legislature, even with the representation of Chicago limited, the legislature of Illinois will always represent consumers of foodstuffs considerably stronger than it does the producers.

Mr. HULL (Cook). I can very clearly see where a situation of that kind would raise a sentiment in favor of the initiative and referendum, because that would be the only way in which the large population of a great city would be able to express itself in any proportional way in respect to the making of laws.

CHAIRMAN DOVE. Any further questions, gentlemen?

Mr. HAMILL (Cook). Mr. Chairman, I move that the committee do now recess until 8 o'clock this evening.

CHAIRMAN DOVE. It has been moved that the committee recess until 8 o'clock. May I state that there are two other speakers this evening and I trust the committee will all be here promptly at 8 o'clock.

Motion prevailed.

Whereupon a recess was taken until 8 o'clock p. m.

8:00 o'Clock P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Dove presiding.

CHAIRMAN DOVE. The Committee will please come to order. We will proceed with the two remaining speakers. Illinois is a great agricultural commonwealth and farming is one of the greatest businesses of the

State. With the exception of 18 or 19 of the counties of the State all the other counties have a farm bureau or other kindred organization affiliated with the Illinois Agricultural Association. The Secretary of that Association is here tonight representing more than 67,000 farmers, and it is a pleasure for me to introduce to you Mr. J. O. Thompson, secretary of the Illinois Agricultural Association.

Mr. THOMPSON. Mr. Chairman and members of the Committee. I am sure that you at least have had your customary full day, and I know my time has been a little bit fuller than usual, especially of affairs relating to the work of the Constitutional Convention, and most particularly of affairs relating to the particular item that we have under discussion tonight, the Initiative and Referendum.

Your Chairman has said that I speak representing some 67,000 farmers of the State of Illinois who are members in their counties in the local county organization and who are members of the Illinois Agricultural Association. I wish only to emphasize this fact and bring to you this thought that perhaps the Illinois Agricultural Association is relatively a new voice in agriculture and a new voice for the farmer, and I truly hope that in representing the farmer tonight through his organization that it may be the real voice of the farmer. I think I make no mistake when I interpret to you the sense of the farmer on this proposition of the I. & R. when I say to you the farmer is opposed to the I. & R. becoming a part of the Constitution of the State of Illinois, and I will grant that there are here and there over the State good farmers who will not agree with the majority of the organization on that particular point, but their number is infinitely small compared with the number in the organization who strongly support the association in its opposition to the Initiative and Referendum.

Now, I want to tell you why the farmer is opposed to the Initiative and Referendum. I think I would first emphasize this fact that the farmer can see no great crying necessity for the Initiative and Referendum being written into the Constitution of the State of Illinois; he has not in times past found it so difficult to get legislative matters brought to the attention of the State legislature that he has felt it necessary to have some other way in getting those matters up for a vote or getting them written into the laws of the State. He can see no necessity then for this, neither can the farmer see where the Initiative and Referendum principle is a part of the principle of representative government under which he has operated in times past in the State of Illinois and under which he hopes to continue to operate in the future.

The farmer has some work to do. He is a laboring man in many senses of the word; he works; he has busy times when he must get his crops tended, or get his crops harvested, his cattle and hogs fed, his cows milked and the thousand and one things done that he must attend to. If he is going to wear clothes and eat food, and secondly, if the persons who you speak of and I speak of as the consumers are to consume the food—the farmer is perhaps as largely a member of the class we call consumers as any other one sort of folks; he is busy; he has given his attention in times past to the election of representatives to represent him in legislative affairs, to an election of administrators in the administrative end of government to take care of that side of it, and when he has elected his officials to operate the machinery of government he has felt that those men wisely selected should be able to do the job. He has felt he had ample recourse in the next election if the men had not done the job, to change the men. So he cannot see any necessity for any addition to the machinery of government which will bring to him in any time of the year, in busy seasons, the need of going out and preaching among his own folks about any policy question or any question that might be brought up under the initiative and referendum, and then working for that proposition or working against that proposition, working to get the vote out and all the things that would be necessary to do in order to win that thing or lose it, or kill it in his own community. And then, he does not wish to saddle himself

with the necessity which he would have to assume in Illinois of converting a very considerable number of the voters of our larger cities of Illinois for or against the proposition that might be out. That would be an expense, and time taken from his work and all that, which you should not be encouraging him to take from his work, and for which he will not thank you, I think. He cannot see the necessity of the I. & R. and the next thing I think is that he can see the impracticability of the working of the initiative and the working of the referendum when you come to a practical operation of it.

I am conceding that it is not the easiest job in the world to get a large petition of names on a proposition that might be up. I do think personally it is only a relatively hard matter to get that in places where we have lots of people to work with, but I do assure you that for the farmers of Illinois, in order to initiate some measure required to get the insignificantly small number which is stated in proposal 133, it would be almost a superhuman effort on their part to secure the necessary petitions. They do not have street corners on which they can stand and solicit people who go by to sign petitions. To get 100,000 farmer names on a petition in Illinois would require a very considerable degree of effort and the farmer sees the impracticability of that side of it. Well, whether he sees it really or not, whether it is true or not, this appears very apparent to him, that opposed to this hard time to get these petitions signed it seems to him that the people in the larger cities of the State, and I include some down State large cities as well as Chicago, would have a relatively easy time to secure these petitions. That is one point, the matter of securing petitions.

Then when it would come to the work necessary to be done in order to get the proposal passed, the measure passed by the requisite number of voters at the election, he sees another job which seems almost insurmountable. If the proposal is something to which he is opposed, he sees it almost an impossibility to defeat that proposal, especially if it is a proposal which would emanate from Chicago, at least have the unanimous support of Chicago. And the farmer, if he could see no hope of getting any support in opposition to the measure in that great voting district of the State, the farmer sees where he would have to provide some means of getting his views on these matters to the voting public in a very broad State-wide way and to do that would cost him time and cost him money and cost him effort which he does not feel like taking upon himself at the present time.

The farmer is especially opposed to the initiative and referendum because proposal 133 calls for 100,000 signers to a petition to initiate a measure and 50,000 signers to a petition for a referendum. That, if my information is correct and I understand it to be correct, would be about three per cent of the voters for the initiative and one and one-half per cent of the voters for the referendum. Now, when we think of State-wide terms this amount seems reasonable to say that 100,000 is a very considerable number of names. But if you reduce that to your local community of government, and your proposals carried the I. & R. proposal in the same ratio as the signers of the petition to your local government, those branches of the local government which have legislative functions, suppose we have a village government in which there are at the last previous election—which was not important, in which the voters did not get out and to which you would have 150 voters—and your village authorities passed an ordinance. One and one-half per cent of one hundred or 150, signing the petition, could call for a referendum upon that ordinance; and one and a half of one hundred voters is one and one-half names, and one and one-half soreheads in a town could require a special election so that the people might vote on an ordinance which had been passed.

I do not know if my premise is right, whether this 133 carries it to the local government; if that is right the case I have illustrated is not overdrawn and might easily happen, and I ask you if it is just good common sense? If that is true of the village government, that is just a local analysis of bringing out into terms of figures we can see the one and a

half or three per cent that is on the 100,000 or 150,000 features of proposal 133.

Proposal 130 applies the principles of the I. & R. to the practical workings of the I. & R. not only to legislative matters, but to constitutional provisions as well, and it would seem to me, and I think it seems to the farmer of the State of Illinois that he wants to be pretty sure that he has some fairly solid rock on which the government of the State may be founded, and in times past in our National government and in our State government we have considered that the Constitution is that rock on which our government is founded. Now, if we cannot be sure that is a rock instead of shifting sand I am quite sure that the farmers will not rest quite easy with the Constitution.

I want to say to you as I said in the beginning, I hope and feel very confidently that I speak the opinion of the farmers of the State of Illinois in this matter. The question was raised this morning or this afternoon relative to the membership in the Illinois Agricultural Association. The last figures that I could get from the office showed a little over 67,000 members. These are scattered over the State of Illinois; that membership is growing at the rate of about 2,000 a week; these are facts which I shall be pleased to verify if any man who questions them desires to have them verified.

That organization has an executive committee which meets once every month in its office on the third floor of the People's Life Building in Chicago. The executive committee is composed of nineteen farmers of the State of Illinois who are selected as members. They have never held a closed meeting and you are privileged to see what is going on if you want to. We invite you to come. The minutes of those meetings are printed and distributed to the membership. I tell you these things in order that you may know that the Illinois Agricultural Association is not a name, but is a real live working business organization of the farmers of the State of Illinois.

I want to say this further, that the Illinois Agricultural Association believes that the group of men here who are working on this Constitution are giving grave consideration to the matters which come before them from day to day; they believe they are working to the very best of their knowledge and ability and they have some high regard for the knowledge and ability of this body, and I want to say this final thing, which all this other has been a preface to, that we would not want you to interpret our appearance here, appearing against the Initiative and Referendum at this time, that if we cannot with others convince the people of this body that the Initiative and Referendum should not be included in the Constitution, then do not believe that we are going out to kill the Constitution. We do not have that in the back of our heads at all. I emphasise this point because I have heard it expressed, and the farmer resents it, the farmer resents this expression, "If this or that is not put in the Constitution that you submit will be defeated before the people." The farmer resents that and he doesn't want to be put in the attitude of taking that position.

Now, in conclusion, one final word: The farmer, speaking through his organization, the Illinois Agricultural Association tonight protests against the I. & R. going into the Constitution that you are formulating here because he cannot see the necessity of it. He can see the impractical feature when he gets it to be a practical application. I have tried to be brief as I know that, if we may judge the future by the past, there are many others here who desire a few words at this time, and I would be glad to stay until those words are said if you want me to stay in this position during that time. If nobody wishes to ask any questions I shall be glad to get down, and I thank you all for your attention thus far. (Applause.)

Mr. McEWEN (Cook). Do I understand you correctly that you are reciting merely your views or the farmers' view on the Initiative and Referendum as to its utility to him or value within this State, or are you stating what you believe to be a correct position taken regarding the Initiative and Referendum as a principle?

Mr. THOMPSON. You will find he feels this, Judge McEwen; he does not see its utility to him or the necessity of it in the State affairs. And as a principle of representative government he is also opposed to it.

Mr. McEWEN (Cook). Will you tell me whether you favor placing in the Constitution a prohibition against legislation on this subject?

Mr. THOMPSON. On general principles we don't want to get too many limitations on the legislature, and if I felt the I. & R. was going to be enacted right soon I would want to have that as one of the limitations, but I do not fear it Judge, myself.

Mr. McEWEN (Cook). How much time do you want to let the legislature do some enacting on this subject, five years or ten years?

Mr. THOMPSON. I would want it to be twenty or thirty years maybe; it might be fifty if I give it serious consideration.

Mr. McEWEN (Cook). Don't you think we should have that happen in our life time and let us know how the I. & R. came out, let us make that ten years, what do you say?

Mr. THOMPSON. All right.

Mr. McEWEN (Cook). When you say that your aversion and abhorrence to the I. & R. would extend to the point that the City of Chicago should not have it if it wanted it?

Mr. THOMPSON. Has not the City of Chicago had some referendum privileges in times past?

Mr. McEWEN (Cook). Yes.

Mr. THOMPSON. Has she cared very much about them, Judge?

Mr. McEWEN (Cook). I think they have. I think on our bond issues that they act as a great restraining force on extravagance which tells the city administration they must use some intelligence.

Mr. THOMPSON. You have had, since 1919, 82 questions up and the percentage of the total vote out at the elections has been 38 per cent?

Mr. McEWEN (Cook). That is a great deal better per cent than this Convention was elected by.

Mr. THOMPSON. That is true.

Mr. McEWEN (Cook). Then, let's not find fault with it.

Mr. THOMPSON. I am asking how dear to the heart of Chicago this is.

Mr. McEWEN (Cook). As dear to the heart as these delegates were. I do not think anything is particularly dear to the hearts of the people of Chicago except that everything is dear that comes from down State. Let us get back to the question of whether you would continue the principle of the referendum in the City of Chicago?

Mr. THOMPSON. If the City of Chicago wishes to work and live and operate under a representative form of government, I would think so.

Mr. McEWEN (Cook). Do you regard the Initiative and Referendum as a modification of our republican form of government?

Mr. THOMPSON. I certainly do.

Mr. McEWEN (Cook). If that be true, and it is elemental in our government, it makes an elemental change; then you recognize, do you not, that a Constitutional Convention in drawing up a Constitution makes provision for the different branches of government, the executive, judicial and legislative, and makes some circumscribing or directing of their powers.

Mr. THOMPSON. Yes sir.

Mr. McEWEN (Cook). And if this be elemental and be a change in the form of government, should it not have a place in the Constitution, either giving full authority or less authority or no authority at all, or ought it not to be considered if it be a change or threatened change—our courts have recognized the right of the legislature to change it.

Mr. THOMPSON. Yes sir.

Mr. McEWEN (Cook). Therefore, if it be elemental, should it not go into the Constitution as a Constitutional matter?

Mr. THOMPSON. Well, sir, I think it may be elemental, and I think it is not in accordance with the principles of the representative form of government, and that you members of the Constitutional Convention will have to

determine whether or not you are drawing a Constitution which is to strike for the State of Illinois a representative form of government, and upon your decision upon that question you will determine whether or not the I. & R. should go in or stay out.

Mr. McEWEN Cook). Do you feel that your farmers' organization can secure any legislation which it considers of value to it and which they believe to be reasonable from the legislature?

Mr. THOMPSON. I have said to our farmers' organization in their annual meeting, in their executive committee and before the legislative committee, that if they expect to have legislation enacted in Illinois they should first know that the matter is fair and right and clean, and then go after it straight from the shoulder, and if they cannot get it we will feel it ought to be right and go after it again, and if it is not right, if it is not just, they cannot expect to get it very often and they should not attempt to get it at all.

Mr. McEWEN (Cook). Your organization has never failed to get the legislation it wanted of this legislature?

Mr. THOMPSON. Yes.

Mr. McEWEN (Cook). Has it finally failed?

Mr. THOMPSON. The future is a long time ahead.

Mr. McEWEN (Cook). Have you not secured all the legislation you have applied for?

Mr. THOMPSON. We have got another chance.

Mr. McEWEN (Cook). I said what you had applied for?

Mr. THOMPSON. We have failed.

Mr. McEWEN (Cook). You will try again?

Mr. THOMPSON. Yes, I will give you warning.

Mr. McEWEN (Cook). Don't you feel in five years, when you get this splendid farmers' organization altogether, you will be the strongest organization in Illinois?

Mr. THOMPSON. We won't feel that way, Judge; I would not want to feel that way.

Mr. McEWEN (Cook). With that powerful organization, don't you think your farmers' organization will be down here in the legislature putting over some kind of initiative and referendum which will be an easy thing for you to do if you get behind it?

Mr. THOMPSON. No.

Mr. McEWEN (Cook). You do not think that is so?

Mr. THOMPSON. No.

Mr. McEWEN (Cook). You believe you will tread a different path from your brothers in North and South Dakota?

Mr. THOMPSON. Absolutely, you bet your life. I tell you, Judge there is not any State socialism in our program.

Mr. McEWEN (Cook). Some of the delegates seem to think that the North Dakota people are out of line?

Mr. THOMPSON. I will agree with them, their judgment is good.

Mr. McEWEN (CCok). Do you regard the I. & R. as anything of socialism?

Mr. THOMPSON. It would open the way to some very socialistic tendencies in government that the farmers are afraid of.

Mr. McEWEN (Cook). We have a lot of them now; twenty-five years ago we had the same proposition that is shown today, and still they are a part of our laws and our system.

Mr. THOMPSON. Yes.

Mr. McEWEN (Cook). All those things that were sneered at 25 years ago passed into the laws of our states and are recognized as proper and beneficial things.

Mr. THOMPSON. Yes.

Mr. McEWEN (Cook). Do you see any danger to the farmer if we required a percentage of a petition in 52 counties of the State? Doesn't that make him safe from this monster by the lake?

Mr. THOMPSON. He may be safe but not sane; we would like to be both safe and sane.

Mr. McEWEN (Cook). Sanity is such a relative thing, I do not want to go into that.

Mr. THOMPSON. We are all crazy; go ahead.

Mr. McEWEN (Cook). Fifty-two counties would be safe all right so fas as being overwhelmed by a large vote?

Mr. THOMPSON. It would look that way, yes, sir.

Mr. McEWEN (Cook). On the subject of percentages, you find fault with the percentage of 133 as applied to villages and cities? What would you say to ten per cent petition requirement for the City of Chicago, that would compel them to get 100,000 votes, after the ladies vote—would not that be restriction enough to prevent a little group making trouble?

Mr. THOMPSON. I do not think it is a question of percentages, although the smaller the per cent the worse the proposition appears.

Mr. McEWEN (Cook). You argued against that bill on account of the smaller per cent?

Mr. THOMPSON. I would argue against it if it was 10 or 50 per cent, I would still argue against it.

Mr. McEWEN (Cook). So you complain of a large percentage in one instance and a small percentage in the other. Do you think that in 1912 the three great parties, the Republicans, the Democrats and the Progressives, made a mistake when they declared the initiative and referendum?

Mr. THOMPSON. Have they declared it since then?

Mr. McEWEN (Cook). Some of them.

Mr. THOMPSON. Which ones, and how often, and when?

Mr. McEWEN (Cook). Well, throughout the United States I could find representatives of all parties.

Mr. THOMPSON. Individuals.

Mr. McEWEN (Cook). In different states.

Mr. THOMPSON. You were talking about the national platform in 1912.

Mr. McEWEN (Cook). Will you answer the question I asked you, whether you think they made a mistake or not?

Mr. THOMPSON. They evidently think so.

Mr. McEWEN (Cook). Well, do you think so?

Mr. THOMPSON. Yes, sure; I will tell you I think so if you want me to.

Mr. McEWEN (Cook). I don't want you to say anything that doesn't represent your opinion.

Mr. THOMPSON. No, sir.

Mr. McEWEN (Cook). Just because you are of a courteous disposition and want to be agreeable?

Mr. THOMPSON. I think that question probably is not pertinent. I cannot see what you are trying to get at by your questions, Judge.

Mr. McEWEN (Cook). I am trying to bring out this: That for years past I appreciate there are not only hundreds of thousands, but millions, of people in the United States who believe in the I. and R.

Mr. THOMPSON. Some of them are good farmers, too.

Mr. McEWEN (Cook). Your group is taking a stand against that opinion that has manifested itself for years here and clear across the continent; I am trying to discover whether your opinion as represented here is in direct conflict with all of this mass of other opinion. In other words, so far as that opinion has been expressed, it seems to me this great weight is for the I. and R. principle, and you are standing here representing a farming group, and I want to get your opinion as to whether you think all of these millions in all of these years all over this country are wrong and you are right?

Mr. THOMPSON. I would think, Judge, that you would not want me to believe that just our little group of voters were here and that all of the rest of the voters were on the other side, would you? Are there not many millions and millions also on our side of that proposition, representing a very considerable school of thought, too?

Mr. McEWEN (Cook). If there are, will you tell me where they have manifested themselves in this State in any other way than staying at home, if that be a way?

Mr. HAMILL (Cook). Why confine it to this State?

Mr McEWEN (Cook). Because I assume this gentleman may not have gathered dates all over the United States, and I put it that way in order that he might express himself on a subject that he probably looked into. I was fair to the gentleman. If you want to go all over the United States, or you can even hit Australia——

Mr. THOMPSON. I would prefer to stay close at home, Judge. I presume you have been to Australia and New Zealand.

Mr. McEWEN (Cook). I assume you haven't the data on the subject?

Mr. THOMPSON. No.

Mr. McEWEN (Cook). I haven't either.

Mr. THOMPSON. There were some votes counted this afternoon on that question. I don't have that as well as some of the delegates.

Mr. McEWEN (Cook). Some votes?

Mr. THOMPSON. I say the vote was related this afternoon showing the lack of a preponderance of votes in favor of the I. and R.

Mr. McEWEN (Cook). Oh, yes, the opponents of the I. and R. have to count everybody that stayed at home.

Mr. THOMPSON. Not down State. You can't count those that voted down State; they are against it.

Mr. McEWEN (Cook). I know you did pretty well down State, but not nearly so well as we did up in Chicago. They would overtop your vote by a large majority. But we have reached the field of speculation.

Mr. THOMPSON. Yes, sir, wild speculation.

Mr. McEWEN (Cook). And I will quit while you are still smiling.

Mr. THOMPSON. Yes, sir.

Mr. WOLFF (Cook). Mr. Chairman, I would like to ask Mr. Thompson a question or two. Did I understand you to say what the farmers want is a Constitution solid as a rock and not shifting sand; is that right?

Mr. THOMPSON. That is a rather poor figure of speech, but we want a pretty substantial document.

Mr. WOLFF (Cook). Do you think that the present Constitution is of that nature?

Mr. THOMPSON. It has lasted pretty well, from 1870 on. The old ship is riding pretty safely right now.

Mr. WOLFF (Cook). You have in mind the Constitution should be a document that is respected by the judges and the courts and the legislature, as well as by the individual; is that what you mean by a Constitution built on a solid rock?

Mr. THOMPSON. These agencies you name are all creatures of the Constitution, are they not?

Mr. WOLFF (Cook). Yes, but I am asking you if that is what you had in mind.

Mr. THOMPSON. I think they should respect it the same as the citizen should.

Mr. WOLFF (Cook). Do you think the legislature and the courts ought to obey the Constitution as written as well as individuals?

Mr. THOMPSON. With the amendments as made from time to time.

Mr. WOLFF (Cook). You think that is what the farmers had in mind when you say they wanted a Constitution as solid as a rock? If you were informed that the legislature did not obey the Constitution as written, what would you say as to that ?

Mr. THOMPSON. I would say, change the legislature, of such members of it as were not obeying the Constitution.

Mr. WOLFF (Cook). If the people down the State, in spite of the fact that they knew the members of the legislature had violated their oath of office and refused to obey the Constitution and the law, sent them back repeatedly, what would you say as to that?

Mr. THOMPSON. I would say there was something crooked in Illinois, or in Denmark.

Mr. WOLFF (Cook). Don't you think the people, in view of that fact, have something to say as to the Constitution and as to carrying out the law?

Mr. THOMPSON. My dear sir, I can't see why they don't have some right when they have the right to elect the men they send to the legislature.

Mr. WOLFF (Cook). In spite of the fact that they know the legislature violated the oath of office and did not carry the Constitution out as written, what remedy have the people got?

Mr. THOMPSON. They have their strong men here, have they not?

Mr. WOLFF (Cook). They are supposed to have.

Mr. THOMPSON. Who are the other people, sir?

Mr. WOLFF (Cook). Well, I am asking you a few questions.

Mr. THOMPSON. All right; go ahead.

Mr. WOLFF (Cook). I am saying that the legislature did not carry out the Constitution as written, and I am referring to the particular section that describes how and when the State shall be redistricted. Now, of course, the general opinion is that the reason that the legislature did not carry that out was because they feared the votes at the next election. In other words, they had more fear of what would happen on election day, or had more respect for what would happen to them on election day, than they did for their oath of office, and the result was they refused to carry out the Constitution as written. Now, if the I. and R. was a part of our Constitution and the law, the people then could take some action in that matter, could they not?

Mr. THOMPSON. Would they?

Mr. WOLFF (Cook). Why shouldn't they?

Mr. THOMPSON. They don't seem to care about the election of the men they send here to the legislature.

Mr. WOLFF (Cook). I didn't get that.

Mr. THOMPSON. I say, if they don't care enough to elect men to the legislature who will work according to their oath of office, what would they care about your referendum or petition?

Mr. WOLFF (Cook). Because of this reason: For instance, the 13th district where I come from, we have a minority representative and two majority representatives. If our minority representative does not carry out the wishes of the people, the people cannot elect anyone else, because the party controls. If the people put up one or two representatives in the primary, they have no chance against a well organized machine, and on election day they have no chance against the minority candidate, and that is why he comes back here and does not represent the people.

Mr. THOMPSON. Can you assure me that under the workings of the I. and R. they would not be just as easily handled, manipulated and corrupted, if you will, as with the present machines that you are talking about and which you don't seem to think much of?

Mr. WOLFF (Cook). No, I don't think so; everything has proved to the contrary.

Mr. THOMPSON. May be you have that evidence.

Mr. WOLFF (Cook). Let me call your attention to this matter. You know this to be a fact: That candidates at the time of the election may say, "This is my platform this is what I will do," but the people have no assurance they are going to do it; they have a right to change their minds; and when it is a written proposition, the proposition cannot change, can it?

Mr. THOMPSON. Maybe it ought to be changed.

Mr. WOLFF (Cook). I say when the people vote on the proposition and that proposition becomes part of the law, that doesn't change, but a candidate can change his views and his vote.

Mr. THOMPSON. Don't you believe a legislator may be rather vague and his constituents may be rather vague in their minds on measures which are talked about at election time, and after coming down here and sitting in the deliberations of the legislative body and getting the evidence presented before the committees, the legislator ought to be in a position where he might

change his mind and go back to his people at home and say, "This is the reason why I changed my mind on this; I got more information;" wouldn't that be more right than to send a man down here hog-tied and tell him to go to it, right or wrong?

Mr. WOLFF (Cook). The only information I brought back was this: The Constitution provides for that, but the down State fellows are against it.

Mr. THOMPSON. Sure.

Mr. WOLFF (Cook). It is not a question of hearing both sides of the story. The Constitution is very plain as to what his duties are. Now, just one more question. You have heard, I presume, of the day the matter was discussed about the teachers, and the small pay they were getting throughout the State of Illinois?

Mr. THOMPSON. I didn't hear anything of that.

Mr. WOLFF (Cook). Weren't you here that day?

Mr. THOMPSON. No, sir, I was not here that day; I am sorry.

Mr. WOLFF (Cook). From the information we gathered here, the teachers throughout the State were receiving a salary, in addition to their school expenses, which amounted to about $54 for the education of each child in the public schools. The teachers and educators have found it necessary to come to the legislature to try to educate them, and spend a lot of their time and money in trying to show them that they were not appropriating enough money or passing such laws as were necessary to allow them enough money. Do you think for a minute that the people would hesitate to vote a sufficient amount of money or pass such laws as were necessary to educate their children properly?

Mr. THOMPSON. No, sir, and I don't think if that proposition is laid down fair and square to the legislature they are going to have that trouble, but I will tell you as soon as any organization, including our own, comes before the legislature and tries to coerce that body, it is not going to get very far, and it would not if I were a member of that body. (Applause.)

Mr. WOLFF (Cook). Do I understand you to say that the educators and the teachers of this great State have been here trying to coerce them?

Mr. THOMPSON. I am not informed.

Mr. WOLFF (Cook). I just thought you said that.

Mr. THOMPSON. I don't think so.

Mr. WOLFF (Cook). What do you have in mind?

Mr. THOMPSON. I had in mind their attitude of approach.

Mr. WOLFF (Cook). Were you talking about the teachers?

Mr. THOMPSON. Yes, sir; I have in mind that their attitude of approach must be rather poor if they are coming to the legislature with that appeal and not getting that condition alleviated.

Mr. WOLFF (Cook). Do you think it is necessary for the teachers to come to the legislature and tell the legislature; aren't the facts obtainable without their doing that?

Mr. THOMPSON. I think so. They might better stay at home, perhaps.

Mr. WOLFF (Cook). What would be the result if you gentlemen had stayed at home?

Mr. THOMPSON. It probably would be a pretty good thing.

Mr. WOLFF (Cook). You think you would have better success if you had stayed at home?

Mr. THOMPSON. On a good many propositions that we could be easily be here, and find an excuse for not being here, you will not find us here.

Mr. WOLFF (Cook). That doesn't answer the question.

Mr. THOMPSON. Yes, it does.

Mr. WOLFF (Cook). You said that the teachers had probably better stay at home?

Mr. THOMPSON. I am saying on some things we probably had better stay at home.

CHAIRMAN DOVE. Are there any further questions?

Mr. DUNLAP (Champaign). Mr. Chairman, I just want to ask one or two questions if I may. This afternoon, Mr. Thompson, you were present, were you?

Mr. THOMPSON. Yes, sir, I was here.

Mr. DUNLAP (Champaign). I want to ask you if you remember the delegate from the floor referring to the Allen bill, which was passed in the latter part of the last century, as being a horrid example of the need of the referendum in the City of Chicago?

Mr. THOMPSON. Yes, sir; I thought, though, because of the fact that I was not born yet at that time, I guess, that that must have been some fellow that you were talking about. I heard him talk about it, anyhow.

Mr. DUNLAP (Champaign). You probably have read the history of the State. Are you aware that that bill was simply an enabling act, that it was a matter of home rule for the City of Chicago; that delegates have been here from the city arguing in favor of it before this Convention?

Mr. THOMPSON. I didn't have that information.

Mr. DUNLAP (Champaign). You were not aware that that was strictly a home rule measure?

Mr. THOMPSON. No, sir.

Mr. DUNLAP (Champaign). And are you aware of the fact—I think this was brought out this afternoon—that on account of the representations that were made from Chicago and through the city press, that bill was repealed at the next session of the General Assembly; you have heard of that, have you not?

Mr. THOMPSON. Yes, sir.

Mr. DUNLAP (Champaign). And do you think that the fact that that was repealed by the next session of the General Assembly is an argument in favor of the Initiative and Referendum?

Mr. THOMPSON. No, sir.

Mr. DUNLAP (Champaign). Especially the referendum?

Mr. THOMPSON. No, sir.

Mr. DUNLAP (Champaign). I want to ask you, Mr. Thompson, if your association receives any appropriation from the General Assembly of the State of Illinois?

Mr. THOMPSON. The Illinois Agricultural Association does not.

Mr. DUNLAP (Champaign). What per cent of the dollar that has been talked about here that comes through the sale of milk does the farmer get; what per cent of the cost reckoned in a dollar comes to the farmer through the sale of milk?

Mr. THOMPSON. I think, sir, that the total amount that the farmer gets for milk is probably as large or larger than most of the articles of food which he sells; it is fairly large, and that would amount to, in the case of milk, putting it on the price of a quart of milk, which would sell at fifteen cents, the farmer is getting under seven cents, and the spill at the station is taken out of the farmer's share at that.

Mr. DUNLAP (Champaign). Isn't it true it was brought out in the testimony before the jury that the farmer received 5¼ cents per quart for milk that was selling in Chicago at 14 cents?

Mr. THOMPSON. That is probably true.

Mr. DUNLAP (Champaign). And the rest went to the distributor?

Mr. THOMPSON. Yes, sir.

Mr. DUNLAP (Champaign). What per cent of the produce of the farm generally, the per cent of a dollar, is received by the farmer; have you any figures on that?

Mr. THOMPSON. That is a question I looked into a little bit last summer one time. I happened to be in Washington, and on that occasion a party of five of us had dinner, and it was at one of the modest hotels there. That dinner cost us a little over eleven dollars. That is the amount we paid, and then we had to pay quite a substantial tip on top of that, and I sat down and figured out the amount that the farmer got for the beefsteak, the potatoes and bread, butter and corn that were consumed at that meal, and of that amount of over eleven dollars the farmer got 82 cents. As near

as I could figure out, 82 cents of that eleven dollars went finally to the farmer.

Mr. DUNLAP (Champaign). Has it not, Mr. Thompson, been figured out that the farmer gets about 32 cents out of every dollar which goes to the consumer of the price produce is selling for?

Mr. HULL (Cook). Mr. Chairman, a point of order. I don't think the question has anything to do with the matter at hand.

Mr. DUNLAP (Champaign). This had just been brought up in the discussion, and I just wanted to show that part of it.

CHAIRMAN DOVE. Are there any questions, gentlemen?

Mr. THOMPSON. I thank you, sir, and I thank the committee. (Applause).

CHAIRMAN DOVE. Representing no organization or association, but as a good citizen interested in the work of this Convention, our next speaker comes to us well qualified to speak upon the subjects under discussion from an entirely different angle than that approached by the other speakers. Mr. Streyckmans, during the Third, Fourth and Fifth Liberty Loan Campaigns, was the director of the foreign language division of the seventh Federal Reserve District. He is a Chicago lawyer and former Assistant Attorney General, and I am indeed glad to introduce the Hon. Felix J. Streyckmans to the committee.

Mr. STREYCKMANS. Mr. Chairman and gentlemen of the Convention: It is quite a task to undertake a discussion of a subject of as great magnitude as that which has been discussed. I am therefore going to confine myself to the general principles involved and cover as little of the ground that has been covered during the day as possible.

We evidently, according to the discussion that has taken place here today, have reached a crisis in our affairs governmental in their nature.

Back in 1648 at Plymouth our forefathers, having extended the town meeting to the various communities that surrounded it, started what was then known as the representative form of government. That representative form of government thrived and survived in this country for 125 years, until the Articles of Confederation were drawn. Then we had our Federal Constitution drawn on the basis of a representative form of government, and one of the sections of that Constitution provided that every State shall be given a representative form of government, and in accordance with that Constitution, in 1818 we held our first Constitutional Convention in the State of Illinois, and as a result of this representative form of government we are today the greatest nation on the face of the globe.

We have thrived and we have prospered, and we have brought to our shores people from thirty-three different nations, who have enjoyed the liberties and privileges that this representative form of government conferred upon them, and still today you are members of a convention taking up the proposition of changing that form of government to a so-called democracy.

The government that forms the greatest nation in the world ought not to be lightly disturbed. That was the only reason that I asked the members of your Convention to appear before you here today.

In Chicago we have perhaps 67 per cent of our population that are foreign born, with one or both parents of foreign descent. We have for the last three or four years been telling them what our form of government is. We have endeavored in every way to teach them who our congressmen were, and our representatives and members of the legislature. When the war broke out it was necessary to reach that class of people and inform them why we were at war. They didn't even know what a liberty bond was, and in order to reach them, my fellow citizens, it was necessary to organize into groups speaking thirty-three different languages, to use literature in thirty-three different languages, to use all of the resources the government had in the treasury department to inform them about the issues before us at that time.

Now we want, according to this constitutional amendment, to change our form of government. The people, every time any legislation is passed,

are compelled to acquaint themselves with the nature of the legislation, and pass upon it.

Have you, in passing upon this amendment, furnished a means whereby you are going to reach all of the people and inform them properly on the questions that are before them when they vote upon any of the legislative propositions that have been passed, or are you going to leave it to every organization in the State of Illinois that is desirous of having legislation to go before the people from Chicago to Cairo and conduct a campaign after the legislature has passed that legislation and see that the people ratify it? In other words, are you going to turn back into the hands of the various organizations that we have in the country, and make permanent every form of legislation passed by our legislature?

If, and we don't have to consider anything else, if our government has crumbled, if our representative form of government has failed, if you want to herald it to the people of the world that the Illinois form of government is no longer a proper government upon which the people can rely, then it is necessary to have a substitute, but until you are firmly convinced in your minds that the representative form of government that we have here in the United States is a failure, there is no reason for changing it. There have been a good many efforts throughout the United States to change the form of government, and some of the people taking part in these changes have been severely criticised sometimes. Can you blame these people for criticising them?

In a Constitution Convention here it is said one department of our government is so corrupt it does not represent the people, and that you are called upon to devise a ways and means of again putting Illinois in a proper position with the other States and the countries of the world.

As a resident of this State all of my lifetime, I don't believe that that condition has arisen today. I don't know what will happen in the future, none of us can tell, but if you judge the future by what the past has given us, there is no fear in my mind that our representative form of government, if properly carried out, will do all that is required to be done by the original framers of the Constitution in the Constitutional Convention of 1818.

We are talking about unrest in the United States today. There is considerable unrest. It is not the fault of our form of government. It is the fault of conditions here. It is because class is pitted against class. It is because today everyone looks after his own interest and forgets he is a part of his government, and forgets that what we must do in legislation and everything else must be for the country as a whole, and not for any association as a whole or what any individual wants.

Isn't it true, if we have an Initiative and Referendum and do away with the present form of government, it will become necessary for all classes that have any legislation that they desire to carry through, to carry out the hobbies initiated, to get them before the legislature, and afterwards see that the people ratify them? What will be the result? Will there be a lack of unrest? No, but every class, every creed, every organization will be attempting to do one thing or another in the way of legislation, and that is the thing we must fear. And after you have passed your legislation in the legislature, you must see that everyone, whether he speaks our language well—if they are citizens they are entitled to the vote—knows what he is voting for. They must know just exactly what that piece of legislation they are asked to ratify means.

We had an illustration of what could be done with a law when an intelligent member of this Constitutional Convention turns to a copy of our statutes and reads a law, and that law is condemned without any further examination, nor without asking or seeking any reason perhaps for the change that is made in the law. If a member of this Convention can do that, how can you expect the ordinary voter, who goes to the factory in the morning with a pail and comes home at night and who is unable to read and differentiate between the delicate situations you find, how can you expect him to vote intelligently on these propositions? By that I don't mean that any of our voters, if they are entitled to vote, if the matter is properly

presented to them, will not vote intelligently, but what is the use now of doing away with a representative form of government, the law being intended in the first place to prevent those things which would pit class against class, the legislature being intended as a body that should listen to the man from Cairo or Chicago, or the representatives of this part of the State or of that part of the State, a body of men who should intelligently study any of the questions upon which they may legislate, and do away with this class prejudice?

Our system is right; our present condition of mind in this country is wrong. When our representatives come to the assembly chamber, if they come from a grain district, they want to do that which is pleasing to an agriculturist; if they are industrial men, they want to do that which is pleasing to them, instead of saying, as in the days gone by when they went to Congress, they must do that which is to the benefit of the country as a whole, regardless of whether it is a detriment to the country they come from.

If you read the history of the ratification of our Federal Constitution, nowhere will you see the word "class;" nowhere were the classes discussed. There was no such thing. Everybody was for America. Everybody was for his country. Everybody was doing that which he thought was to the best interest of his country, and we developed what? We developed statesmen. We developed men who devoted their lives to the interests of their country, but of late years we have not developed the same class of men, because in all circumstances it has been class against class and clashing of this class and that class.

Some of the arguments I have heard advanced here today for an Initiative and Referendum were to the effect that twenty-five years ago the Allen bill had been passed by the legislature, and at the last session of the legislature an exemption had been made in favor of the farmers and fruit growers.

Outside of rumors and general talk, which everybody is indulging in at the present time, and which is causing the present unrest in this country, I as a citizen of Illinois have not seen so much corruption, and to my mind there isn't so much corruption in the State of Illinois or anywhere else as to necessitate a change of our form of government. If the situation is so bad you must take away from the legislature the legislative power and bring it back to the people again, how is it you can trust the executive power and the judicial power? Why don't you exercise the same rights on the judiciary, and when a man is on trial for murder in your community, let the people vote upon the question as to whether or not he is guilty, instead of leaving it to the judiciary, who are appointed for that purpose? The same thing with the executive. If we are so corrupt in Illinois we cannot rely upon our public servants, why not, in case of disturbance or disorder, take a vote in the community as to whether or not the Governor will call out the militia?

That is exactly the situation you are confronted with here. You don't have the confidence in the men you select for the purpose of carrying on your legislation, and by adopting the Initiative and Referendum, you are pitting class against class, and you are going to do more towards creating additional unrest in this country than you can do in any other way.

By means of the Initiative and Referendum it would be possible for fifty-one per cent, taking it in its largest sense, of the population, to absolutely govern in that way, and nullify the other forty-nine per cent, because a man in the electorate is just as human as a man in the legislature, and every man, when he votes on a legislative proposition as an individual, is going to vote on that proposition which he thinks is of benefit to him, and the trouble in the past twenty years has been we have paid too much attention to class in the way of legislation instead of paying more attention to that which was to the good of the country. What would be the result? That was not the intention of the framers of our government. Their intention was that fifty-one per cent might rule by electing their representatives and by passing legislation which was to the benefit of the whole, but that fifty-one per cent must protect and preserve the rights of the minority.

What would become of our Bill of Rights; what would become of all of our conglomerate population?

Now, as good citizens of Illinois, the only question that should confront any of us here is, what provision are we going to put in the Constitution that will be a benefit of the whole—farmers, agriculturists, industrial workers, merchants and everybody else? No one is entitled to a better place in our law than the other, and if you give everyone a square deal, capital and labor, industry and finance will all be treated alike and they will all get their dues.

Now, suppose an act which was to the interest of the big interests was passed by the legislature. Would it not be possible for big interests to conduct a campaign which would result in the ratification of that act by the people to a greater degree than it would be for the private individual who had no funds?

A statement was made about campaigns in the State of Illinois for public office. You all know that to send out a circular to the voters of Illinois would cost about $40,000, to acquaint all people of the State with the proposition. Besides that, you would have to reach people who probably would not understand unless they went to a meeting, and, until you agitated the question in all the different districts of the State, the rich man would have the votes and the poor man would not.

I would like to see any member of this Convention go back to his labor union or his agricultural association and say, "We are providing for a form of government which will have the initiative, and the legislature probably will pass whatever you want, and then the great Sate of Illinois will ratify it." That is the kind of government we will have. It was asked this afternoon, "Don't you think if we did something of that kind at the present time we could overcome some of the unrest that at present exists?"

I think it would be the worst thing in the world to hoodwink the people into a belief that we are going to rectify conditions by remodeling our form of government, instead of going to them and showing that for centuries the government we enjoy today has resulted in prosperity, and is still the same government, and they have their relief the same as they had ten, fifteen, twenty or thirty years ago.

You all remember the old campaigns we had twenty-five or thirty years ago, where the people took an interest in political affairs, and I will guarantee today you can ask a good many citizens of Chicago about the members of the legislature here, about their members of Congress, or even who their aldermen are, and they can't tell you, and still a good many of them also do not know what the duties of a member of Congress are or what the duties of a member of the legislature are. That is the reason there is no rectification of some of the conditions, and perhaps some of the men are returned here time after time without the voters knowing what they are voting for.

All we need today is a campaign of education among our people to let them know the character and form of our government, so they can rectify the situation.

We have in the legislature the veto power. That is the first safety valve. The second is—suppose it is class legislation that has been enacted, and the legislature is wrong—we have recourse to the courts; and if the legislature has done anything such as the passage of the Allen bill that has been referred to today, then the electors at the polls can elect a new legislature that can repeal that act or take action at the succeeding General Assembly.

You say, it may take some time. It does not take more time than to act on the Initiative and Referendum, and it means we are carrying out the original form of government under which this country has prospered. It means we don't concede over night that the form of government which is being patterned after in the republics of Europe today is a failure, because right in Czecho-Slovakia our Constitution is the Constitution they are working on; the same thing in Poland; and I had a conference with some attorneys with Lithuania, and they are doing the same thing there.

They are discussing this matter, and according to the discussion here it seems to me that our form of government is crumbling and that we are going to the dogs.

What was the intention of the framers of our original Constitution in the selection of a legislature? They figured that the intelligent voter—and if he is intelligent enough to vote on the proposition of the Initiative and Referendum, he ought to be intelligent enough to do this—would select a man to represent him in the legislature who is qualified to pass upon legislation, just as you, in your ordinary affairs of life, go to a lawyer or to a doctor; and that when we provided for an executive department, we would elect those men who are qualified, and for the judicial department those men learned in the law. And, if they failed in their trust, they provided for a new election, and they provided that the term should be two years in the legislature and in the Senate four years, so that every two years, or every session of the legislature, you have a new body. What is wrong with that form of government? Why is it we need to make a change today?

Unless you provide in the I. and R. for adequate machinery to inform the people of the State generally exactly what legislation you are asking them to vote upon at the polls, you will have more of a muddle than you have today, and it seems to me impossible to reach the large number of people that we have in Illinois and explain this question to them. We have such a diversity of population and we cover such great stretches, each instance that you went to the people it would necessitate the same question of a campaign as we have every four years in the election and selection of State officers, and why discuss that proposition at all until you have made up your mind that the old form of government is no longer of service in this country?

Somebody has said that twenty-two States have adopted the I. and R. That is no reason why Illinois should. On that bare statement alone Illinois should not come to the conclusion our form of government is wrong.

If I remember rightly, in 1896 about six million people voted for Bryan, and a little majority voted for McKinley and saved the country. But the fact that twenty-two States have come to the conclusion that they want to change their fundamental form of government should not actuate the people of the State of Illinois in doing that unless you have come to the conclusion that it is no longer of service to the State of Illinois.

Now, who would control legislation under the I. and R.? Would it be the little fellow? Would it be the little member of the little organization, or would it be the great interests? If a campaign of education was being carried on, if the newspapers were in favor of that particular legislation, then it would have a good opportunity of passing, because that would be a great help, but if the newspapers happened to be against it, how would you overcome that situation? What machinery are you going to provide for to inform the people? When you take legislation that you find in our statute books now and condemn that, I can't imagine how you can reach the people. If there is a diversity of opinion among lawyers, and if it takes bankers and merchants and manufacturers a great deal of time to acquaint themselves with legislation, what about the laboring man, who has perhaps the bulk of the votes in the State of Illinois, and whose action at the polls may change the situation? How are you going to reach him?

My contention is that on the broad principle that our country has prospered under the present form of government; that it has attracted the people from all the countries in the world; and that we are still today the greatest and most prosperous nation in the world, all we need is to educate our people, and that we ought not to make a change today in our fundamental law; that we ought to let things stand as they are and let the future take care of itself.

I presume Mr. Wolff will start the ball rolling. He has been number one. (Laughter.)

Mr. WOLFF (Cook.) Did I understand you to say the champions of the I. and R. are of the opinion the country will go to the dogs if the I. and R. is not adopted?

Mr. STREYCKMANS. You misunderstood me, Mr. Wolff. I said evidently you think our old form of government is no longer of any service to the State if you are going to adopt a new one; that it has crumbled.

Mr. WOLFF (Cook). Did you not say every time there was legislation the people would have to vote upon it?

Mr. STREYCKMANS. Every time they would have to vote upon any matter that was referred to them, you would have to conduct a campaign, such as I have indicated. I don't know what your provision is, or what your proposition provides for.

Mr. WOLFF (Cook). I understood you to say the I. and R. is a substitute for the legislature.

Mr. STREYCKMANS. You misunderstood me. You might just as well appoint a committee of five, and call that the legislature, and then have the legislation and let the committee pass it, and pass that on to the people. I don't see why you want the intelligence of an intelligent body as long as you are going to have the people vote on it after you get through with it.

Mr. WOLFF (Cook). Didn't you say the I. and R. would do away with the representative form of government?

Mr. STREYCKMANS. It does. You want to go back to the people; you want to retain the legislative power in the people; you no longer desire the representative form of government.

Mr. WOLFF (Cook). Not as I understand it. We don't intend to interfere with the legislative function except at such times as the people feel that they are not getting the proper laws, or when they have a law on the statute books that is not in accord with their opinion.

Mr. STREYCKMANS. You like the legislature part of the time, and you don't like it another part of the time.

Mr. WOLFF (Cook). That is absolutely true. You also said the I. and R. would be a benefit to the corporations and the rich and not so well adapted to the other people; did you not?

Mr. STREYCKMANS. I think the man who could carry out a big campaign could probably corrupt men to influence other men.

Mr. WOLFF (Cook). You, coming from Chicago, no doubt are well acquainted with the campaign we had there last year on the Surface Lines, are you not?

Mr. STREYCKMANS. I have heard of it.

Mr. WOLFF (Cook). Indeed you must have heard of it, and you will admit that the Surface Lines made some campaign for that franchise?

Mr. STREYCKMANS. I so understood.

Mr. WOLFF (Cook). And that the opponents of this franchise were the poor people in general?

Mr. STREYCKMANS. I don't know that. I know a good many people were opposed to it, but I never went into the question of their resources.

Mr. WOLFF (Cook). Well, the large number of voters, you would not class them as wealthy people, would you, who were against this franchise?

Mr. STREYCKMANS. I don't know. I didn't make any determination as to whether those people that cast the votes were wealthy or poor.

Mr. WOLFF (Cook). Isn't it a fact that this campaign was conducted by people of wealth for the franchise?

Mr. STREYCKMANS. I presume it was; if they spent any money they must have had the wealth.

Mr. WOLFF (Cook). Is it not a fact that the franchise was defeated?

Mr. STREYCKMANS. That is right.

Mr. WOLFF (Cook). That the wealth of the corporations cannot be used to advantage?

Mr. STREYCKMANS. Oh, no, that is simply one case where it was a subject that the people were well acquainted with. They knew they were riding on a street car every day. Some questions are very difficult. Other questions are easy. Some questions are local in their nature; some questions are State wide in their nature. You are giving one illustration of the inability of a corporate interest to put through a proposition of that kind. That is not to admit the proposition at all.

Mr. WOLFF (Cook). You know something about the gas franchise in Chicago, do you not?

Mr. STREYCKMANS. In what particular?

Mr. WOLFF (Cook). As to the ordinances, and the privileges they have under them?

Mr. STREYCKMANS. No, I don't.

Mr. WOLFF (Cook). If you knew whether the gas company had the right to pull up streets after the taxpayer has just paid for them, a good many times before the street is two weeks old, many times before it is completed, do you think if that franchise was submitted to the vote of the people, they would vote in favor of it?

Mr. STREYCKMANS. It may be at the time they voted on it, they did just exactly what the City Council would have done. That depends upon the wording of the franchise. There are a great many questions involved in that.

Mr. WOLFF (Cook). In other words, you think the people who pay from one hundred up to a hundred thousand dollars for their front lot would submit to a franchise that gave a corporation the power to pull that up?

Mr. STRECKMANS. I don't think there would be one voter out of a hundred that would read the franchise through. I read it, but I don't believe there would be one voter out of a hundred take the pains to read it through. I am a lawyer, and there was a great deal of doubt in my mind on the proposition. Still the people defeated it, but not because they went into the detail of it. That is what you will be up against in this referendum.

Mr. WOLFF (Cook). In 1908, when the people voted for the franchise, why did they vote for it?

Mr. STREYCKMANS. For what franchise?

Mr. WOLFF (Cook). The street car franchise.

Mr. STREYCKMANS. I don't know what campaign was put up. I don't know whether the slogan at that time was "Let the people rule," or what it was.

Mr. WOLFF (Cook). Well, when you say they defeated it on general principles in 1908 when they voted for the franchise, why did they vote for it?

Mr. STREYCKMANS. I don't know whether the slogan was, "Let the people rule," or what it was.

Mr. WOLFF (Cook). Well, you don't want to commit yourself whether the people voted for that gas franchise?

Mr. STREYCKMANS. That has nothing to do with this proposition.

Mr. WOLFF (Cook). Only insofar as you said the I. and R. would be a benefit to the wealthy people?

Mr. STREYCKMANS. As a general proposition, and as a matter of common sense it should be apparent to anybody that he who has a great many resources behind him can influence public opinion a great deal better than he who has not.

Mr. WOLFF (Cook). Can you cite an instance to the delegates here where big interests put something over where the people had a right to vote on it?

Mr. STREYCKMANS. In 1908 the people put over the traction ordinance; they had the finances; in the last election their resources failed them.

Mr. WOLFF (Cook). Is not that evidence the people knew how to vote when they know about it?

Mr. STREYCKMANS. I claim you can rest safely on the judgment of the people of the State of Illinois, every one of them, even though they cannot speak English, if you can completely acquaint them with the subject matter upon which they vote. I claim you are depriving many people of their right to vote by this.

Mr. MICHAL (Cook). In regard to the vote of the people on the street car ordinance, do you think the people voted intelligently on that proposition?

Mr. STREYCKMANS. That is a matter of opinion. I don't see why you want my opinion. I believe people are able to meet public questions provided you educate them.

Mr. MICHAL (Cook). You regarded that ordinance as a perfectly good ordinance, didn't you?

Mr. STREYCKMANS. No, I don't know that I formed an opinion; I voted against it myself.

Mr. MICHAL (Cook). As a matter of fact don't you know that is the most beneficial ordinance that was ever brought up in respect to street car legislation?

Mr. STREYCKMANS. I don't know anything about it.

Mr. MICHAL (Cook). Would you say there is social unrest?

Mr. STREYCKMANS. Yes, there is no question about it.

Mr. MICHAL (Cook). What check would you place on the proposition in this period of social unrest when we might be confronted with the proposition of having a radical General Assembly passing radical laws?

Mr. STREYCKMANS. If we had a radical legislature, the next legislature would end it.

Mr. MICHAL (Cook). Don't you think the principle of the Initiative and Referendum operates both ways?

Mr. STREYCKMANS. I have not studied that very much, because I am opposed to it entirely. I am opposed to changing the form of government.

Mr. MICHAL (Cook). Are you opposed to the principle of the Initiative and Referendum in our State Constitution as hostile to good government?

Mr. STREYCKMANS. It is hostile to a republican form of government, I think.

Mr. HULL (Cook). I understood you deplored class antagonism, is that right?

Mr. STREYCKMANS. Yes.

Mr. HULL (Cook). And sectional antagonism between different sections of the State; if 51 per cent of the population of the State were restricted in their representation, what would you say as to that?

Mr. STREYCKMANS. No such thing would be done, they would have the same representation throughout the State of Illinois.

Mr. WARREN (DeKalb). Did I understand you to say or tell us it is your belief there is more unrest in the United States than ever before in the history of the country?

Mr. STREYCKMANS. Yes, all over the world.

Mr. WARREN (DeKalb). Did I understand you to say that there are some states in the United States operating under some form of the I. and R.?

Mr. STREYCKMANS. I understand from Judge McEwen, according to his statement to every speaker, there were 22 states that had the I. and R.

Mr. McEWEN (Cook). As I understand your statement at the outset, you came here of your own initiative?

Mr. STREYCKMANS. Yes.

Mr. McEWEN (Cook). Do you, in appearing here, are you in support or do you represent any particular group or organization or association of men and women?

Mr. STREYCKMANS. I represent myself only.

Mr. McEWEN (Cook). And you thought there was a crisis down here in this Convention?

Mr. STREYCKMANS. Not until I was told there was to be an attempt made to change our form of government, and I presume that carried with it a crisis.

Mr. McEWEN (Cook). You have used the expression, "change our form of government; "doing away with the representative form of government;" and even once used the words, "destroyed our form of government;" I assume they all mean the same thing; you say it means to change our form of government, and in your belief it would do away with our representative form of government, is that what you mean?

Mr. STREYCKMANS. I meant it was the intention to drop the representative form of government, which you are doing when you undertake to take up the referendum.

Mr. McEWEN (Cook). I come back to the question, when you heard there was an initiative and referendum proposed here that you thought would accomplish a change of our republican form of government, you determined to come to Springfield on your own account?

Mr. STREYCKMANS. Yes, sir.

Mr. McEWEN (Cook). Have you read the four propositions that have been filed here covering the subject of the I. and R. and setting forth the many points covering the entire field?

Mr. STREYCKMANS. No.

Mr. McEWEN (Cook). Have you ever read any plan for initiative and referendum?

Mr. STREYCKMANS. Yes.

Mr. McEWEN (Cook). Do you remember what particular State?

Mr. STREYCKMANS. I believe one in Ilinois some years ago.

Mr. McEWEN (Cook). One that was proposed?

Mr. STREYCKMANS. It was not passed, no.

Mr. McEWEN (Cook). Did you understand the legislature was to be superseded?

Mr. STREYCKMANS. No.

Mr. McEWEN (Cook). Did you understand it applied to all legislation?

Mr. STREYCKMANS. No.

Mr. McEWEN (Cook). Did you understand to what legislation it did apply?

Mr. STREYCKMANS. To any legislation your amendment provided for, but whatever it did would be intricate and hard to understand if it was necessary to go to the people with it.

Mr. McEWEN (Cook). And your principal objection to initiative and referendum is the difficulty of explaining to the people, that is one of your objections?

Mr. STREYCKMANS. Yes.

Mr. McEWEN (Cook). And the people with whom you have had special experience are men of foreign tongue?

Mr. STREYCKMANS. A great many of them, yes.

Mr. McEWEN (Cook). Of those foreign speaking people of Chicago, what members would you say were in the several groups that were reached by the organization relative to the sale of liberty bonds.

Mr. STREYCKMANS. They took in everybody of each racial group; practically all of the foreign people in Chicago in the 7th Reserve District belonged to that through churches, societies or racial organizations.

Mr. McEWEN (Cook). For the information of the delegates, can you give us an approximation of the number of people?

Mr. STREYCKMANS. In Chicago alone on the 4th of July, 1918, the organization turned out 800,000 men, women and children at a fourth of July celebration, those that attended that celebration.

Mr. McEWEN (Cook). Of that number the voters would represent possibly one-fifth?

Mr. STREYCKMANS. I could not say.

Mr. McEWEN (Cook). Do you think all those people were voters?

Mr. STREYCKMANS. A great proportion; those that were not before the war are now, because they were granted citizenship by going into the army.

Mr. McEWEN (Cook). Did you have occasion to doubt the patriotism or material which they would furnish for good citizenship, the people you came in contact with?

Mr. STREYCKMANS. No, I found when things were explained to them they were more patriotic than the American born, because they came from countries where for centuries they had struggled for liberty, and they had it here.

Mr. McEWEN (Cook). Do you believe those men are as close to the State and Nation as the men who are born here?

Mr. STREYCKMANS. They are.

Mr. McEWEN (Cook). And could be relied upon by the State and Nation as citizens to do their full part?

Mr. STREYCKMANS. That is the reason I say I am not in favor of any change in form of government by our citizenship.

Mr. McEWEN (Cook). Do you feel those people have as much intelligence or comprehension of the qualification of voters and of what is sought to be accomplished by their officials as anyone?

Mr. STREYCKMANS. They have, but there is a difference between qualifications of voters or individuals who represent them and questions of public policy, and that is true of any voter?

Mr. McEWEN (Cook). These groups of foreign people are well covered with newspapers?

Mr. STREYCKMANS. Not at the present time. The foreign language newspapers assisted very much in acquainting the people with this Constitutional Convention, but since that time a great many of them have gone out of business because of the difficulties of carrying on their circulation and everything else, and misunderstanding of certain people as to the character of those papers.

Mr. McEWEN (Cook). Because of difficulty in the use of the mail?

Mr. STREYCKMANS. No, about 75 foreign language papers in Chicago—there have been papers published during the last six or seven months, or since the armistice, which were transient papers, they are not of the foreign language newspapers.

Mr. McEWEN (Cook). Do you know of any useful purpose that would be served by requiring three voters to equal two down the State?

Mr. STREYCKMANS. I don't see any use for it, and I am against it.

Mr. McEWEN (Cook). Do you think anybody could show you you were wrong?

Mr. STREYCKMANS. It would be a hard proposition; I would be for the same representation from Chicago, and still I would be against the I. and R.

Mr. McEWEN (Cook). You believe that would impair the republican form of government in this change?

Mr. STREYCKMANS. I do. I feel that the system that we have proceeded under for 100 years in Illinois and which has developed the great men we have had here and developed one of the greatest commonwealths has not broken down, and I do not see any necessity of any change.

Mr. McEWEN (Cook). You do not think a man should wait until the wagon is broken down before he begins to fix it, do you?

Mr. STREYCKMANS. I do not think we are broken down; maybe we are, maybe you can see it, Judge.

Mr. McEWEN (Cook). I don't know, but I am trying to find out. I would like to ask you whether you have known of any of these Initiative and Referendum laws being held unconstitutional in the United States.

Mr. STREYCKMANS. I have not looked it up at all.

Mr. McEWEN (Cook). You referred to the federal provision, that the Constitution of the United States guaranteed a republican form of government.

Mr. STREYCKMANS. To every state.

Mr. McEWEN (Cook). And if a state were to abandon the republican form of government the Federal government would be bound through its court, through its congress and through its other powers, to restore that republican form of government, would it not?

Mr. STREYCKMANS. I don't know, the Supreme Court has failed to decide that, but said it was a political question for Congress to decide, so I cannot very well decide it.

Mr. McEWEN (Cook). And the Supreme Court in deciding at that time when it encountered the question leaves the decision of the State stand as the laws of the several states as valid, legal, enforcible laws.

Mr. STREYCKMANS. I don't know about their legality, I could not give you an opinion on that; your opinion is better than mine.

Mr. McEWEN (Cook). What I am trying to get at is whether the logic of your argument carries us to the proposition in those 22 states they have not a republican form of government because you say the republican form of government would be changed. You said it was an abandonment of the republican form of government.

Mr. STREYCKMANS. I do personally think so. I do not know whether it has cured anything down there, it is general all over the country.

Mr. McEWEN (Cook). Do you think the state of Massachusetts accomplished anything revolutionary when it adopted the Initiative and Referendum?

Mr. STREYCKMANS. I never read the act, but I think they broke away from the old established form of government. There is no question about that. We have had the same form for 100 years. If you tack something on it you are changing it.

Mr. McEWEN (Cook). Don't you think the great resources of this country and the opportunities for work and production and for commercial opportunity have made this country great?

Mr. STREYCKMANS. The people have made it great also.

Mr. McEWEN (Cook). They have been working and producing people and law abiding people, and they have tried to make everything grow and everything come to the use of man?

Mr. STREYCKMANS. And they did that under the laws we are now talking about changing.

Mr. McEWEN (Cook). Do you think the United States of America would have succeeded under the laws of England?

Mr. STREYCKMANS. No, if I am to form an opinion on that, I must base it upon the laws they did actually base it on; they did do it on the republican form of government they have now.

Mr. McEWEN (Cook). You know the English form of government in Canada and Australia has been very successful and satisfactory to the colonists?

Mr. STREYCKMANS. Yes, but do you know any republican form of government that is older than ours and has stood as long as ours has anywhere?

Mr. McEWEN (Cook). I am not very well versed on that, but I am informed that Switzerland is an older republic.

Mr. STREYCKMANS. Switzerland is not as old as we are.

Mr. McEWEN (Cook). Do you know any republics that have been overturned since their establishment?

Mr. STREYCKMANS. When you get into democracies, we can name a good many of them a thousand years ago.

Mr. McEWEN (Cook). Don't you think you can find republics you can compare with monarchies to the disadvantage of the republics?

Mr. STREYCKMANS. They are not alive today, and there is no question about that, but we started years ago and are still going.

Mr. McEWEN (Cook). Don't you think the character of our people had a great deal to do with our success?

Mr. STREYCKMANS. I am not going to say that our form of government has not been the cause of our development, because I do not care what kind of people you have, if your form of government is wrong you cannot develop, but one of the things that brought the people here was the republican form of government.

Mr. McEWEN (Cook). Oh, we admit we are the greatest country in the world.

Mr. STREYCKMANS. And we get it under our own form of government.

Mr. McEWEN (Cook). You would not change the form of government in the slightest degree?

Mr. STREYCKMANS. I do not see any necessity in the State of Illinois for the Initiative and Referendum. The only difficulty is the class pitted against class, and you will accentuate that by your enlargement of legislation and by your referendum and you will have chaos.

Mr. McEWEN (Cook). It has been said in this hall, in this Convention, that within a very short period of time nine hundred different amendments to constitutions have been adopted throughout the states of the United States showing that men are thinking and improving the government all the time and making their governments greater instruments of service to their citizens and means of justice. Do you think we should foreclose this question and say that because we have had a government that is safe for 100 years, we should do nothing and not take into consideration what other people throughout this country are doing, take advantage of their experience? Do you think we should say that because we have been successful for over 100 years that we should not change?

Mr. STREYCKMANS. I do not hear any voices calling out for any change of our republican form of government in the State of Illinois. The unrest we have is not directed in that direction at all. Our trouble is the people do not know where to rectify conditions, and it is so complicated that people cannot understand our government and you want to tack something else on it.

Mr. McEWEN (Cook). When we started our government it was then an experiment; they had nothing but the republics of ancient Greece and Rome and the rest which could not afford any very good analogy. The people of the Old World said we could not maintain ourselves, that it was an experiment. If you had sat in the Constitutional Convention of that day you would have said to those men, "Don't change that old English system, it is a good system; it came from Holland originally and I know the Holland people are all right. Let us get just as close to the Holland and English idea as we possibly can because they have prospered better than anybody under it; this prosperity we have enjoyed has been a dream. Nobody would have said it was possible back in those woods on the Atlantic Coast. Are not you in the same position today?

Mr. STREYCKMANS. No. When they formed this Constitution it was an experiment in theory at that time; since then such changes have been made as were considered necessary and those changes have stood the test for 100 years and it has brought us the prosperity we have enjoyed, and why should we change it unless there is a demand for it. What you have said about Holland or England of the 22 states of this nation does not change my mind as to the necessity of this thing. If there are no more questions, I thank you for your attention.

Mr. HULL (Cook). I move that the committee do now rise and report progress.

(Motion prevailed.)

CHAIRMAN DOVE. I know I voice the sense of the committee in expressing to these gentlemen our thanks for appearing here today.

(The President presiding.)

Mr. DOVE (Shelby). Your committee having under consideration the proposal on initiative and referendum has directed me to report progress.

(Carried.)

Mr. BECKMAN (Cook). I ask leave to submit the report of the committe on military affairs.

Springfield, Illinois, March 31, 1920.

Your Committee on Military Affairs to which was re-committed *Section No. 4 together with Amendment No. 1 of Proposal No. 339*, reports as follows: *Amendment No. 1* by unanimous vote was laid upon the table. *Section No. 4 of said Proposal No. 339* by unanimous vote is reported back to the Convention with the recommendation that it be adopted.

The Committee voted unanimously to lay on the table *Amendment No. 1* on the strength of the opinion rendered to the Committee by the Attorney General of Illinois, the effect of which is, that under *Section 8, Article 2* of the Constitution of 1870 "A member of the Militia when in active service in time of war or public danger is exempt from arrest by Civil Authority."

With this construction as a basis, the Committee recommends the retention of *Section 4, Article 12* of the Constitution of 1870 on the theory as explained by the opinion of the Attorney General, which is attached to our report—that said *Section 4* supplements the effect of *Section 8* of *Article 2* giving the members of the Militia further protection in going to and coming from muster except in cases of treason, felony or breach of the peace.

The committee voted to retain the word "muster," relying on the same opinion of the Attorney General in which the word "muster" is defined. Said definition of the Attorney General was adopted by the committee as its opinion.

W. H. BECKMAN,
ABEL DAVIS,
JAMES NICHOLS,
E. B. COOLLEY,
WM. H. CRUDEN,
C. B. T. MOORE,
J. MACK TANNER.

THE PRESIDENT. The report of the Committee on Military Affairs will lie upon the table and be printed.

Mr. CRUDEN (Cook). Your committee on suffrage and elections presents a report.

March 31st, 1920.

Your Committee on Suffrage and Elections, to which was referred Proposals numbered 9, 20, 28, 34, 53, 88, 164, 190, 198, 204, 205, 262, 291, 299, reports the same back with a substitute therefor, being Proposal No. 351, a proposal in relation to Suffrage and Elections, and recommends that the original proposals, above enumerated, be rejected, and that the substitute Proposal No. 351, be placed on the general orders.

(Signed) WM. H. CRUDEN, *Chairman*,
JOHN E. TRAEGER,
S. W. MCGUIRE,
ROLLO SIX,
GEO. F. LOHMAN,
ANDREW H. MILLS,
Committee.

THE PRESIDENT. The report of the committee will lie upon the table and be printed.

Mr. BRENHOLT (Madison). I move we adjourn.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Thursday, April 1, 1920, at ten o'clock a. m.

THURSDAY, APRIL 1, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the chaplain.

THE PRESIDENT. The Journal of Tuesday, March 30, 1920, was placed on the desks of the delegates on yesterday. The Journal of that day is now subject to correction. There being no corrections proposed the Journal of Tuesday, March 30th, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of introduction of proposals.

Mr. MICHAL (Cook). I ask the unanimous consent of this Convention to introduce this proposal which I now transmit to the clerk.

THE PRESIDENT. There being no objection, unanimous consent is given.

Mr. CARLSTROM (Mercer). I have a tentative committee report that has been ready for two weeks. It is not a proposal by me.

THE PRESIDENT. Does the Chair understand that is in the form of a report from a committee?

Mr. CARLSTROM (Mercer). No, it is in the form of a proposal.

THE PRESIDENT. There being no objection, consent is given.

Whereupon the Convention further proceeded upon the order of motions and resolutions.

Mr. MACK (Hancock). I want to introduce a petition. The petition is being introduced by request. It is on the subject of reading the Bible in public schools.

THE PRESIDENT. Without objection, the proposal may be introduced.

Mr. HAMILL (Cook). I move you when this Convention adjourns today it shall stand adjourned until ten o'clock on the morning of Wednesday, April 7th. I desire to make a few words of explanation of my reasons for making this motion.

Tomorrow will be Good Friday. Next Tuesday will be election day, in a good many parts of the State. I want to say that as far as I am personally concerned I shall be glad to have the Convention sit tomorrow, but I am putting the motion in this form because I rather anticipate it will meet the views of a majority of the Convention.

Mr. MILLS (Macon). Is there anything the Convention can do tomorrow to hasten the matter? I put the question to the Chair.

THE PRESIDENT. The Chair would state that the condition of the record is such that there are now two reports of standing committees which are now upon the table, the report of the Committee on Military Affairs and the report of the Suffrage Committee. Those reports may be taken from the table and may be considered by the Convention in the Committee of the Whole. Those reports are subject to the order of the Convention.

Mr. MILLS (Macon). I move you when we adjourn today we adourn until tomorrow at ten o'clock.

(Motion lost.)

THE PRESIDENT. The question that is now before the house is the motion made by the delegate from Cook (Hamill) that when this Convention adjourns it adjourns until next Wednesday morning at ten o'clock.

(Motion carried.)

THE PRESIDENT. When this Convention adjourns today it will adjourn to meet next Wednesday morning at ten o'clock.

Whereupon the Convention proceeded upon the order of unfinished business, and general orders of the day.

THE PRESIDENT. There is set today a hearing before the Committee of the Whole upon the various propositions before the Committee on Municipal Government. The Convention will now resolve itself into the Committee of the Whole for the purpose of a hearing upon such propositions. The delegate from Winnebago, Mr. Garrett, is designated to act as chairman of the Committee of the Whole. (Applause.)

(Whereupon the Convention resolved itself into the Committee of the Whole, Chairman Garrett presiding.)

CHAIRMAN GARRETT. Members of the Constitutional Convention. We have a number of speakers here today who will address us on the various phases of municipal government. Owing to the fact that we have a large number, I have divided the time between those who are in favor of home rule and those who are of the contrary opinion, and I would suggest that the questioning of any speaker be deferred until his address is finished, and I further suggest that any delegate who wishes to question any speaker would confine himself to questions only. Our first speaker this morning will be Commissioner Willis J. Spaulding, of Springfield, Illinois.

Mr. SPAULDING. Mr. Chairman and members of the Convention. I realize the serious responsibility that devolves on the delegates to this Convention. I believe the members are equal to it, but nevertheless if I shall contribute any small sum to the promotion of a satisfactory Constitution I will feel myself very much honored.

I am addressing the Convention as chairman of the committee on Convention program of the Illinois Municipal League. The Illinois Municipal League is an organization having in its membership some 150 to 200 cities and towns in the State, including nearly all the larger cities and a number of the smaller ones.

I am not going to attempt to present to you a technical study of this subject of home rule. That has been very effectively presented in the bulletin number 6 on the subject of home rule, with very many valuable references, but I will present to you rather a point of view which I have acquired and which has been reinforced, as it were, by my membership in this organization and contact with the city officials all over the State.

I have been a public official for about ten years, and my conclusions are drawn largely from that experience.

I want to give you a little better understanding of the Illinois Municipal League. This league was organized about the time that Commission Form of Government was adopted in Illinois and took the place of a former organization known as the Mayors' Organization, which was an association of the mayors of the State. I cannot say just how many years the Illinois municipalities have been organized in their work, but it has been anywhere from 15 to 20 years. Since the Commission Form of Government was adopted this organization has grown rapidly. About two years ago there was organized in addition to the Illinois Municipal League a home rule organization which devoted its entire attention to the utility problem. They were particularly interested in that. These two organizations finally united, since their general purposes were the same, and now constitute one organization, having as I say from 200 to 250 cities or towns in the State included in it and contributing to the support of its work. Our secretary is Mr. John A. Fairlie, a student of municipal government and economics at the University of Illinois, having a nation-wide reputation. The president is Mayor Pearson of Evanston. He is not able to be here today on account of the destruction that his city suffered in the recent tornado.

I favor, as a general proposition, not only with reference to municipalities, but with reference to government in general, the giving of generous grants of power. I would give officials responsibility, generous responsibility. Now, that is a very natural conclusion for a public official to come to. We all enjoy the exercise of power, but I would put one restriction on it, I would tie up with this general granting of power the initiative and referendum. We have that, you know, in connection with the Commission Form of Government in Illinois. I have yet to hear the first complaint or objection to the application of the I. and R. on the part of the cities and

villages in Illinois that are using it. It is the greatest safety appliance that was ever applied to a governmental machine, in my judgment, and I have heard with amazement some of the arguments presented before this body against the I. and R. Experience has all tended in one direction, to prove as I have suggested that it is the greatest safety appliance ever applied to government. Switzerland has used it for nearly 100 years and would not think of going back on it, and the objections are straw men, imaginary things that it is assumed may happen, but which never have happened and there is no probability ever will happen.

Now, with reference to the application of the I. and R. to the Commission Form of cities and to cities in general: I want to call your attention to a study made in 1916, a very comprehensive study, questionnaires being sent to all the cities scattered all over the United States that were using these three principles, the Initiative, Referendum and Recall. You know it was thought when we adopted the Commission Form of Government it was a dangerous proposition because it lodged with the few such extensive powers, so they tacked on that measure the I. and R. It has given universal satisfaction. We have never met any of the dangers of concentration of power that it was feared we would meet. Now, there were 545 cities at this time scattered all over the United States that were under the Commission Form, or some modification of the Commission Form. The Des Moines plan is probably the most general plan, but with some variations which are usually minor; up to this writing, 1916, when this study was made by the Bureau on Municipal Research in Philadelphia, which is now taken over by the National Municipal League, they say:

"Up to this writing we have received reports from 449 municipalities, all of which have had the opportunity to correct or revise parts of their reports before publication."

Now, I just want to give you briefly what those reports say as to the use or non-use of the Initiative and Referendum and Recall. The replies show that in 258 municipalities having these instruments available there is not one instance of any one of them having been used.

Mr. REVELL (Cook). I would like to ask if the discussion today is on the I. and R. or on home rule in connection with the utilities. I assume of course that the I. and R. will have to be referred to, but I apprehend that at least so far as I myself am concerned, we discussed the I. and R. pretty generally yesterday, and I think such references as shall be made to the I. and R. ought to be brought in incidentally.

CHAIRMAN GARRETT. The day was given to the Committee on Municipal Government, and of course it is not within my power to direct the speakers as to what they shall say.

Mr. REVELL (Cook). My remarks are only in line with the suggestion made by the Chair.

Mr. SPAULDING. I think the gentleman's criticism is warranted. I will spend very little time with the I. and R.

It seems to me so essential a proposition, so essential a part of the municipal government should not be overlooked, because it is becoming almost universal; that is, the up-to-date city governments have nearly all got it, and I was simply bringing out the point that the general assumption that having these instrumentalities the community is going to waste its time in unnecessary elections is absolutely discredited by the experience.

May I further analyze these reports, from which it appears that the total number of times the initiative has been used in all of these cities is 128; the number of times the referendum has been used is 103. Now, there are nearly 500 cities who were given these instrumentalities. The number of times which the recall was used has been 59. It is clear the officials as a class would be inclined to regard with scant favor the existence of powers enabling the voters to interfere with privileges heretofore resting entirely in the hands of officials, hence it is a gratifying surprise that the officials registered themselves overwhelmingly in favor of these powers of popular control. It think it is generally true that public officials having tried out these instrumentalities are for them. There is no indication that

the people themselves anywhere oppose them, nor is there any reason why they should; no official has said in his opinion the voters would surrender these powers from their charter if such proposals were submitted to them.

A proposal was introduced by the committee for the Illinois Municipal League, or rather presented to Mr. Jarman, who introduced it for us, and was given number 219. Later Mr. Jarman's proposal was amended, and I think improved under number 346; it is practically the same proposal, so that perhaps for the purpose of reference we might refer to 346 rather than to 219. I have not given the two proposals a close study, but I am quite sure that Mr. Jarman has improved it rather than otherwise. I wish to read to you the resolutions adopted by the Illinois Municipal League under which this proposal was drawn, which will give you a pretty good idea of the attitude of the cities.

"Whereas, the old system by which it is attempted to govern municipalities in Illinois by the delegation of enumerated powers has proven altogether inadequate and unsatisfactory, resulting in such confusion that very few attorneys and no ordinary citizen is able to say what the law is; causing much litigation and loss of time in the sessions of the legislature on account of the numerous details concerning municipal government of which the members of the legislature necessarily know but little, and in which they have no interest; and unduly hampering the local administration of cities and villages and thereby discouraging the efficiency of public officials and discouraging the interest of citizens in public affairs, to the great injury of local government; and,

"Whereas, the principle of municipal Home Rule has been adopted by many States during the past 15 years and has in every case been found a great improvement, as compared with the old system of enumerated and delegated powers, both from the standpoint of the State as a whole and from the standpoint of the cities as well; and,

"Whereas, it is the sense of the Illinois Municipal League and the Home Rule Municipal League of Illinois, in convention assembled, that to promote honest and efficient city government, it is necessary that the people of the cities and villages of the State have the power to control their own local affairs;

"Therefore, be it resolved: (1) That the Illinois Municipal League and the Home Rule Municipal League of Illinois favor and urge the adoption of constitutional provisions under which each municipality in the State shall have a full measure of home rule.

"(2) That the Committee on Constitutional Provisions of the Illinois Municipal League be, and is hereby directed to prepare provisions to be included in the Constitution of the State, and submit the same to the Constitutional Convention now in session, said provisions to include complete Home Rule with reference to the local government of cities for the State at large; and a grant of the following rights and powers which shall not be subject to curtailment by the General Assembly:

"(a) The power of municipalities to frame, adopt and amend their own charters, and to exercise all powers relating to municipal affairs not in conflict with general laws affecting the State as a whole;

"(b) Adequate powers of taxation and borrowing;

"(c) Power to furnish all local public services; to acquire (by condemnation or otherwise), and to extend, maintain, operate and control local public utilities, within or without the corporate limits; and provide adequate means for financing the same.

"(d) To grant local public utility licenses and regulate the exercise thereof, subject to conditions imposed by general law for the protection of other communities;

"(e) To authorize counties, cities, towns, villages and other municipal corporations to combine in groups in accordance with law, for establishing public utility and any other service enterprises or undertakings and for operating the same and rendering public and community service.

"Such general constitutional provisions shall not be understood to conflict with special provisions which may be needed to fit conditions peculiar to the City of Chicago.

"The above enumeration of proposed constitutional provisions is intended only as an outline and shall not be deemed to restrict the Committee on Constitutional Provisions with reference to the inclusion of other provisions which may be thought desirable."

Cities of the State of Illinois are creatures of delegated powers only, and can do only those things which the legislature has, by law, said they can do. This is brought home to us as city officials time and again when, in our attempts to enact ordinances, or carry out measures which everyone may agree are beneficial and even necessary to the city's good, we are met by the statement from our legal departments that the thing can not be done, because the legislature in its wisdom has not seen fit to confer upon cities the power to do it.

This situation in which the cities of this State find themselves of being compelled to either refrain from the adoption of measures necessary to the good of their citizens, or to keep running to the legislature with requests for permission to do what every one concedes ought to be done, is most unpleasant, and is not in keeping with the spirit of our institutions. There are many functions discharged by the city which it performs as the agent of the State government, and with reference to these, it is, of course, not only proper, but necessary, that the city act only to the extent that it has been authorized by the State. But on the other hand, there are many matters which are of purely local concern to the individual cities, and the best thinkers and ablest authorities on questions of municipal government are now agreed that with reference to these, the city's powers should be general, rather than enumerated. In other words, with reference to local affairs, the city should have authority to do everything it deems necessary, except those things which the State expressly says it should not do. Under such a plan a city desiring to enact an ordinance or perform an act, instead of turning to statutes to ascertain whether or not power had been given would turn to the Constitution and statute to see if such right had been taken away, and if they were silent on the subject the right would exist. The plan under which our cities now operate starts out with the idea that the city is without any power whatever. It can do nothing until the legislature has spoken. The legislature finally determines that cities ought to be allowed to do certain things and grants them the power, and thereafter the cities may do those things, but those only. If more power is needed, the cities must again apply to the legislature for more laws granting such power, and so on, whenever they wish to exercise an additional right. This plan is that of enumerated powers.

The plan of general powers starts with the theory that a city is endowed with all powers in the management of its purely local affairs, which the Constitution, or statute, has not expressly taken away. If it wants to do a thing, the presumption (in local matters) is that it has the power, and the one who objects to its exercise of that power must show that the Constitution or statute has said that thing should not be done.

The inadequacy of the provisions of the law of 1872, the Cities and Villages Act, becomes more and more apparent as time goes on. The complexity of city life, with its resulting additional problems of city government, is increasing every day. Already more than one-third of the people of the United States live in cities, and if the rate of increase of city over rural population during the last decade has continued, the census now being compiled will show over one-half of the entire population of this country living in cities, under the control of city government. This condition has already been reached in Illinois, over three-fifths of our entire population being residents of cities or villages having a population of two thousand or more in 1910. The proportion is now probably three-fourths. When we remember that the resident of the average city is affected by local public services, as compared with the public services rendered by the rest of the government, in the proportion of about six to one, we can begin to realize

the importance of the people of each city, of a proper administration of their own local affairs.

Consider for a moment this proposition; that the legislature, a mixed body, assembled from all over the State, very few members of which have any adequate conception of the problems of the City of Chicago, is presumed to be more competent to direct the affairs of the city than its own governing body. The legislature which meets for a few months biennially and passes hundreds of bills without the members reading them or even having the bills read to them, is presumed to be more capable of directing the local affairs of cities than the local officials who are in daily contact with the people, and with the problems.

At the last session there were presented over 100 bills having relation to city government. Most of these bills were to take care of local matters, which from the standpoint of State government were perhaps trivial, and, as compared with the great mass of more important questions of State-wide concern, the members of the legislature felt justified and were justified in giving them scant attention. These matters, however, may be of large importance to the local community, and to them may mean the difference between stagnation and progress.

It often happens that demands for local legislation which may be clearly necessary and proper for a particular community, are nevertheless withheld by the legislature because of the rule of uniformity which requires that the law apply alike to all cities of a certain class. Thus needful legislation is denied to one, for fear that it might be abused by another. On the other hand legislation may be demanded by a number of cities, yet denied by the legislature for fear that the circumstances surrounding one or two particular cities would make it inadvisable.

The result of this situation is that the legislature is loaded up with trivial matters which are not of State-wide interest, causing confusion and a vast waste of time, while the cities themselves are in a state of continual irritation because of inability to perform their natural and proper functions.

Many laws have been passed which are special in character and application, notwithstanding the rule of uniformity. Many new and overlapping jurisdictions have been created to meet special circumstances, until municipal law has become so complicated that few attorneys are able to say what the law is.

There has gradually grown up in Illinois a feeling of jealousy and distrust between the City of Chicago and the remainder of the State. This situation is due largely to the fact that Chicago has been required to go to the legislature continually for additional grants of power to meet new problems growing out of the complexity of its local government, incident to a rapidly increasing population. Members of the Chicago district come to the Capitol charged with the responsibility to secure special legislation believed to be vitally necessary by perhaps a vast majority of the people concerned, and yet these matters have been looked upon with indifference by the members from down-state. The natural result has been log rolling on the one hand, or the spirit of reprisal on the other. By giving Chicago a free hand in its own affairs perhaps 90 per cent of the causes of friction will be removed, merely by diverting the attention of the legislature from local affairs, and centering it upon matters of State-wide concern.

It would appear obvious from experience, that uniformity in the government of cities is both impractical and illogical. The character and needs of the different cities are not the same and never will be. Progress in city government in Illinois has been made in spite of uniformity, and not because of it—by the evasion of the rule both by the legislature and by the cities affected.

Imagine the law as it relates to persons, attempting to tell the citizen everything he can do—every act that he may perform under all circumstances. The law attempts no such thing. On the contrary it attempts only to tell the citizen what he may not do, and leaves each of the seven or eight million people of Illinois free to do everything else.

Giving each city the right to grow and develop in its own way opens the door to progress. By permitting cities to frame their own charters and to work out their own problems, some will naturally forge ahead of others. Mistakes will no doubt be made at times, but only those cities responsible for the mistakes will suffer by them, and they will have the opportunity to correct them, and will correct them. On the other hand those which succeed in finding a better method will stand out as a beacon light to others, and thus the science of municipal government will improve step by step, just as improvement is acquired in the fields of mechanics and the sciences.

The claim that the best results are to be obtained by permitting cities to exercise, in local affairs, all the powers of government which they may find necessary, limited only by such restrictions as the State may impose, is not based upon mere theory, but upon facts and principles established by history.

The history of municipal government in England and Scotland furnishes some valuable instructions. Under the reign of the early British kings local government by cities was made a special privilege, and was permitted only upon the payment of certain contributions to the sovereigns, or upon furnishing certain military service. At first the municipal corporations paid this as a tribute, for the right to have and enjoy their own local government, but this remnant of home rule was gradually taken away by the substitution of control by parliament and by court favorites until about 1835. The government of English cities was at that time most corrupt and demoralized.

A conservative writer says of it, "The inhabitants were practically deprived of all power of local self-government, and were ruled by those whom they had not chosen, and in whom they had no confidence; the corporate funds were wasted; the interests and improvements of towns were not cared for; the local courts were too often corrupted by party influence, and failed to render impartial justice; and municipal institutions, instead of strengthening and supporting the political framework of the country, were a source of weakness."

English cities have never yet achieved complete home rule, yet the great progress which they have made since 1835 is undoubtedly due to the larger measure of home rule, which has been substituted for the old irresponsible government.

While we Americans have always prided ourselves upon the spirit of liberty in our institutions, the relation of the city to the State, which has prevailed so long in America was no doubt handed to us from our kingly ancestors. The State still assumes the attitude of an over-lord granting favors to an inferior, instead of recognizing the city as an independent cooperating unit. While we have proclaimed freedom, we have stupidly suppressed freedom in city government, and yet there is nothing more clearly indicated by the verdict of history than that cities have become efficient, and have become great in proportion to the political freedom which they have enjoyed.

The cities of Venice and Florence are two landmarks in the history of city government. Their power of local self-government was supreme as against the world. In their day they reached a height of perfection that few cities have hoped to approach.

For several generations down to the present time the cities of Hamburg, Bremen and Lubeck have exercised absolute freedom with reference to their local government. These are city-states having all the attributes of states. Mr. Albert Shaw, who is a recognized authority on municipal government, says of them, "These three German free cities enjoyed the advantage of a superb management of their financial interests by their ablest citizens."

But it may be suggested that officials of these cities have been elected by classes and not by popular vote as in American cities. This has perhaps been true in Hamburg and Bremen, but it has not been true in Lubeck. In the latter city officials for many years have been elected by popular vote, with no class distinctions, and that city maintained the same standard of

excellence in its government. I am not arguing that we should establish city-states in Illinois, but I cite these examples of splendid results under absolute freedom to show that where cities have been left free to work out their own salvation they have used that freedom wisely.

But it was not necessary to depend on Europe for examples. The cities of California, Colorado, and Washington, where the greatest measure of Home Rule is enjoyed, are forging ahead of others in efficiency and in service to their citizens, and also constitute a bulwark of strength to the State.

The Home Rule proposal submitted by the Illinois Municipal League, of course, provides for the right to regulate local utilities, including the right to own and operate them. In 1913 an act was passed by the legislature purporting to give cities the right to own and operate their own utilities, but it is an empty right, cities being helpless to avail themselves of it because of the impossibility to finance utilities under the provisions of the present Constitution. It is hardly necessary to say that the people of the cities of Illinois, and they now represent nearly three-fourths of the people of the State, will refuse to give their approval to a Constitution which does not provide adequate means for taking over utilities.

Public utility charges are analogous to taxes. We cannot buy our street railway or gas service in Chicago, but must take it here at whatever rates are in force. We have transferred a large part of the taxing power from the government to private utility corporations.

The City of Springfield is no doubt typical of cities of the State. During the present fiscal year Springfield will spend money collected from its inhabitants as taxes and licenses, a total of $500,000 in round numbers.

During the same period the private utility corporations will levy and collect a tax, by means of their rates, the sum of $1,700,000, or over three times as much, for the services they render, including only street railways, gas, electric service, and heat. These same services could be furnished by the city itself at a saving of at least one-half million a year, or in other words the saving would be sufficient to pay all the taxes now being levied for the support of the general city government. When we split hairs over our city tax rate and overlook this larger item, "Are we not straining at a gnat and swallowing a camel?"

Are we not a little inconsistent in our attitude toward public business? Everybody is willing that the city should own and operate the police service, the fire service, the street cleaning and maintenance service, sewer service, health service, and many other things which yield no income. Is not the gas, electric and street railway service just as important to the common welfare? We are perfectly willing to let the city do everything that don't pay, but turn over to private individuals or corporations the public functions that do pay.

Some years ago a group of American business men and city officials at a luncheon in Berlin, given in their honor, were comparing American cities with those in Germany, and were regretting the lack of business methods in American cities. The American speakers were followed by a German burgomaster, who said:

"Yes, we know American cities; we read your reports and we have heard American business men and Chambers of Commerce, and municipal officials say the same thing—that the trouble with the American cities is that they are not business-like. Your cities in America keep your sewers, which lose money; keep your streets, which cost money; you keep your parks and other activities, which cost money; but you give away your street railways, your gas companies, your electric light and your telephone companies, which make money. We in Germany think this is bad business. If any one of you gentlemen as a banker gave away his good loans and only kept his bad loans, very soon he would be a bankrupt."

It is necessary for the protection of the public service corporations as well as the cities, that ample means for acquiring and financing utilities be provided. When cities are unable to purchase existing utilities they frequently resort to the installing of competing plants, which tend to completely

destroy the property value of the private corporation. We have an example of this in Springfield at the present time. Not being able to condemn and take over the property of the private electric light company, which would require a sum greatly in excess of the city's bonding power, the city established a competing plant on a small scale four years ago, which is growing rapidly, and which at the present rate of increase will within a few years, completely duplicate the private company's system, and leave its property worthless. With the right to purchase, this duplication would not be necessary. The company would have been given the value of its property in money, to invest in utilities elsewhere, or to invest in other enterprises. Friction, financial loss and civic and social demoralization would thus be avoided.

Municipal government furnishes a field of human endeavor which inspires and allures to patriotic public service. Men would devote their lives to city building if given an opportunity, but when placed in official control they find they must spend a large part of their time fighting the legislature for the mere right to do the most common and necessary things. Faced with this situation many become discouraged. We believe that with freedom, municipal government will attract the highest type of men to its service, and will become a greater source of strength to the State. I thank you for your attention. (Applause.)

Mr. WOODWARD (Cook). Mr. Spaulding, I understand that you were speaking officially for the Municipal League in your remarks here today. Does that apply with the same force with reference to what you said of the I. and R. as it does to the other remarks pertaining to Home Rule?

Mr. SPAULDING. I would not say that it does except that the I. and R. has been accepted without any criticism, and my purpose in calling attention to the I. and R. was to answer the objection that continually arises against Home Rule; that is, the objection of an incompetent city administration, that is, incompetent city officials running the government badly, that having these checks the larger grant of power is entirely safeguarded.

Mr. WOODWARD (Cook). If I understand you correctly this is more an expression of your own personal views rather than the expression of the people who compose the league of municipalities, is that so?

Mr. SPAULDING. I would say this, I think practically all city officials would agree with me that that is a sufficient answer and would be their answer to that objection of the danger of giving the cities too much power. They are willing to be restrained from abusing that power by the I. and R.

Mr. WOODWARD (Cook). Do you consider it highly important to have the I. and R. accompany any home rule provision adopted by this Constitution?

Mr. SPAULDING. I would say I would not be opposed to it if it was not included, and I don't think the league would. They are willing to have the home rule without the I. and R.

Mr. HULL (Cook). I am referring to the I. and R. What has been the nature of the initiative measures that have been put upon the ballot in any of these municipalities where the right of direct legislation has been exercised?

Mr. SPAULDING. I can only say as to Springfield, and I think there was only one initiative measure and that was with reference to the development of the municipal light plant. As to these propositions they are all reported in this report referred to.

Mr. HULL (Cook). In the pamphlet prepared by the Bureau of Municipal Research in Philadelphia?

Mr. SPAULDING. Yes, not by the Reference Bureau.

Mr. HULL (Cook). You were speaking of there being 150 cities which had joined the Illinois league, did you not?

Mr. SPAULDING. That is, the two organizations; they united this spring.

Mr. HULL (Cook). Just to test the representative character of the organization I would like to ask how many cities and villages would be eligible to membership in this organization?

Mr. SPAULDING. Well, of course every little village would be entitled to membership, but our experience is that when a town is of less than three or four thousand inhabitants, generally the officials do not have any money available or they feel like their town is so small that it does not interest them.

Mr. HULL (Cook). Taking 5,000 population as the limit, how many cities would be eligible?

Mr. SPAULDING. I could not tell you, I have not that in my mind.

Mr. HULL (Cook). You have not added up the population of the cities that were members and compared that with the population of the cities that were eligible, with any limit you want to put on eligibility?

Mr. SPAULDING. No; I would say off-hand a large majority of the population were represented in the membership in the organization, because nearly all the large cities are in the organization. It is the smaller ones that are out.

Mr. HULL (Cook). How about Peoria and Danville?

Mr. SPAULDING. Peoria is one of the few exceptions. I do not think we have Danville, I am not sure.

Mr. HULL (Cook). Quincy?

Mr. SPAULDING. Yes, we have Quincy.

Mr. HULL (Cook). There have been frequent complaints from your law department to the effect that you have not power to do certain things and the continual irritation of the inability to perform certain functions. Those are general descriptive statements. Can you give definite form to those statements? What things come up that you cannot do, what are your experiences in concrete form that you find you cannot do?

Mr. SPAULDING. Well, with reference to the utilities it seems as if there are more things we cannot do than we can. We are unable to issue bonds. Of course that is partly on account of the Constitution; the legislature is not responsible for that. But for years and years we were pleading with the legislature for the right to sell electric current. We got the right to sell water before corporations got so strong, that was a good many years ago, but when the lighting business came into general use, became popular, the corporate power was at that time developed in this country and it systematically and continually prevented cities in a good many States from getting power through their legislature of selling electric current, and many towns in this State were selling current in defiance of law, had hundreds of customers, and they come here to the legislature year after year but the corporations were stronger than we were. I understand the utilities are to be heard this afternoon as opponents to our home rule provision, and it is significant that the utility corporations have been the greatest bar and stumbling block to city government in the State of Illinois.

Mr. HULL (Cook). But most of the powers which you find that you want and which are not granted in the cities and villages act are powers that have to do with utility operations?

Mr. SPAULDING. I would not say that, because it is too broad a question. We have questions regarding sewerage, sanitation and health; pretty near every field of endeavor, pretty near every branch of the work of city government is headed off here and there by lack of power.

Mr. HULL (Cook). But if appeal is made for specific additions of power in respect to those things, it is usually given, is it not?

Mr. SPAULDING. No, no, not by any means.

Mr. HULL (Cook). For instance, where have you met with defeat?

Mr. SPAULDING. I have mentioned one case, the selling of electric current and other public services.

Mr. HULL (Cook). I am trying to find out whether your chief difficulty does not arise pretty largely out of the operation of the public utilities?

Mr. SPAULDING. I would not say that it does. I think you would find the cities in the State that have not had occasion, they may own their utilities already, but during meetings we have things coming up continually, I mean conventions of public officials, where lists of needed additional pow-

ers have been presented. The zoning law was agitated for quite a while, and as I said a while ago there were some 100 bills presented at the last session of the legislature, and there are continually from 100 to 200 bills presented at each session. Many of the bills are for things, for which, viewed from the standpoint of the State government as a whole are trivial, but from the standpoint of the community affected are vital, and are of local concern which the community involved can decide more intelligently, more satisfactorily than anybody else can do it.

Mr. HULL (Cook). I am asking you to get a definite picture of what you mean.

Mr. SPAULDING. I could get those bills and read them over; I cannot give you off-hand what the specific bills were. I have a list of 100 or more in my files introduced at the last session giving the titles of the bills.

Mr. HULL (Cook). A great many at the last session were so-called bonding bills.

Mr. SPAULDING. I don't think these included any bond bills at all.

Mr. HULL (Cook). You spoke of the Springfield heating plant, did you not?

Mr. SPAULDING. Yes, I referred to that.

Mr. HULL (Cook). That increased rapidly in its service to the public?

Mr. SPAULDING. No, the heating plant has not increased much, the lighting plant has increased rapidly.

Mr. HULL (Cook). How is the city lighting plant financed?

Mr. SPAULDING. It has been financed in two or three ways. We had a small contribution from taxes and we have invested our surplus earnings, and we have invested advances made voluntarily by citizens who wanted the service. Those advances amount to from 15 to $20,000, which is money loaned to the city and which is paid back in service.

Mr. HULL (Cook). You have surplus earnings on the lighting plant?

Mr. SPAULDING. Yes.

Mr. HULL (Cook). You did not develop the question of the power to borrow money on bonds at all, for the purpose of financing these income returning municipal utilities?

Mr. SPAULDING. Our bonding powers are stupidly limited. For instance, our city is bonded, not to the limit now since the change from one-third to one-half valuation, we have some margin, but previously we were up to the limit as most cities in the State were, but the inconsistency of our bonding provision now is that regardless of the property the city may own, Springfield may own five million dollars worth of revenue producing property, but is unable to borrow a dollar more than if we owned nothing at all; any other city could borrow just as much money owning nothing as we can owning five million dollars worth of revenue producing property. We own one and one-half million dollars worth of revenue producing property now; our water works and electric light plant are worth that much, and if a private company had it it would be worth three million.

Mr. HULL (Cook). I am not entirely familiar with this proposal; are the bonding powers proposed limited to the uses of financing other utilities, can you borrow on the presently owned public utility for the purpose of increasing your bonds for other uses?

Mr. SPAULDING. Not at all; this is only for revenue producing utilities. That is the only way this increased bonding power could be used; it is exclusively for utilities.

Mr. HULL (Cook). You can use that money borrowed on a present owned utility for the purpose of financing a new utility?

Mr. SPAULDING. Additional utilities, yes.

Mr. HULL (Cook). You spoke of the lighting plant and gas plant in the City of Springfield; have they made profit?

Mr. SPAULDING. Our last report shows a surplus in the water department of about $51,000 in round numbers; the gross income of the water department is $147,000 in round numbers. The value of the property is about $1,300,000; the electric light plant showed a gross earning of nearly $104,000

this year and the surplus of $33,900 in round numbers. The total value of the utility, the electric utility, is $250,000 in round numbers.

Mr. HULL (Cook). Have you the experience of any other State with reference to permitting a corporate debt outside the bond limit, either full faith and credit obligation or lien only?

Mr. SPAULDING. I have never attempted to look it up. I am sure we could give you the information on that line; it must be available.

Mr. HULL (Cook). I will be glad if you can find it.

Mr. REVELL (Cook). With reference to this electric light plant in Springfield: I understood you to say you did a business of $102,000?

Mr. SPAULDING. A little over $103,000.

Mr. REVELL (Cook). You stated there was a surplus of $33,000 in the treasury?

Mr SPAULDING. I did not say in the treasury; the money has already been expended for additions to the property.

Mr. REVELL (Cook). Was that money the result of profit in the operation of the electric light plant?

Mr. SPAULDING. Yes.

Mr. REVELL (Cook). Have your electric light bills to the citizens been reduced any since the time you established the plant, reduced from the amount that was charged by the city when it started the plant?

Mr. SPAULDING. No; our rates are not any lower now than they were in the beginning, although they are nearly fifty per cent lower than the private company rates.

Mr. REVELL (Cook). In whose hands does the power lie to reduce the rates?

Mr. SPAULDING. The City Council, subject to referendum, of course.

Mr. REVELL (Cook). How long has the plant been in operation?

Mr. SPAULDING. In selling electricity to private users, about four years, beginning at nothing and working up to where it is now.

Mr. CORCORAN (Cook). You make no charge against the electric light company for the salaries of Commissioners or Board of Directors?

Mr. SPAULDING. Yes; my salary is charged against the utilities.

Mr. CORCORAN (Cook). Is any part of the City Council salaries charged against the public utility?

Mr. SPAULDING. We do not charge all the Commissioners' salary against the water and light department, no.

Mr. CORCORAN (Cook). Is the bookkeeping done by the city bookkeeping department, or a separate department from the lighting plant?

Mr. SPAULDING. The bookkeeping is entirely done by the water and light department. We have adopted as nearly as practicable a uniform system of accounting as outlined by the State Utilities Commission.

Mr. CORCORAN (Cook). The bookkeeping charges are charged against both?

Mr. SPAULDING. Yes; that is arrived at by taking the total number of customers in each department and multiply that by the number of meter readings of those customers and dividing it on that basis.

Mr. CORCORAN (Cook). What were your profits in the four years?

Mr. SPAULDING. We started with nothing; the first year we showed about $13,000; the second year $22,000 and some odd dollars; then the war came on and while our business increased a great deal our profits remained stationary. About $22,000 the next year; this year showed a substantial increase.

Mr. MICHAL (Cook). The electric meters are read every month, are they not?

Mr. SPAULDING. Yes

Mr. MICHAL (Cook). The water meters are read quarterly?

Mr. SPAULDING. About 2,000 of the water meters are read monthly and 8,000 quarterly.

Mr. MICHAL (Cook). The 2,000 meters that are read monthly are large concerns, I take it?

Mr. SPAULDING. Yes.

Mr. MICHAL (Cook). Mr. Spaulding, I assume you use a lot of coal in operating those plants?

Mr. SPAULDING. Yes.

Mr. MICHAL (Cook). How do you apportion the coal with regard to the water and electric light plants?

Mr. SPAULDING. On the basis of steam consumption.

Mr. MICHAL (Cook). What percentage of the coal do you use exclusively for the operation of the water plant?

Mr. SPAULDING. At the present time about 35 per cent; that is charged as operating expense.

Mr. MICHAL (Cook). What is the percentage of depreciation you charge off for wear and tear?

Mr. SPAULDING. Something like two per cent.

Mr. MICHAL (Cook). Have you any leakage of water?

Mr. SPAULDING. Yes, of course every system has more or less leakage. We have been able to account for 80 to 85 per cent of all the water that is pumped.

Mr. SUTHERLAND (Cook). There was a decision of the Supreme Court recently, I believe, affecting the right of the Public Utilities Commission to regulate the public utility, municipally owned public utility of the City of Springfield?

Mr. SPAULDING. Yes; the first decision was against the city, but the last decision is in favor of the city by one vote, leaving the city to control their own utilities, those which they own.

Mr. SUTHERLAND (Cook). So you now have the right to fix your rates for electric light?

Mr. SPAULDING. Yes; at the present time.

Mr. SUTHERLAND (Cook). On what basis do you determine those rates, in other words what elements do you consider should be charged for in establishing a rate?

Mr. SPAULDING. We try to make the rates high enough to cover the cost, all legitimate costs, and they vary with the system of management; in some cities the water mains are charged against the frontage, and there a different situation arises than if they were paid for out of the revenues derived from the sale of water.

Mr. SUTHERLAND (Cook). Let us take the electric light: What elements enter into your determination of your rates for electricity?

Mr. SPAULDING. Well, it is easier to tell you some elements that are left out. I would make the sweeping statement that all proper elements of cost are included. Now, our report also shows taxes which are foregone, the taxes which the city would have received had the property been owned by a private company. We set that up to show it as a matter of interest, and we also show on the basis of an honest report of taxes, such as people pay on their house and lot, on the basis of what the utility actually pays, which is usually about the proportion of one in four; that is, a public utility property valued on an honest basis pays about one-fourth the taxes paid on other legitimate property, such as houses and lots.

Mr. SUTHERLAND (Cook). You have a capital account charge and also include depreciation?

Mr. SPAULDING. Yes.

Mr. SUTHERLAND (Cook). You said last year your surplus showed $33,900. Did you not have some unpaid bills at the end of the year?

Mr. SPAULDING. That has nothing to do with the surplus. We did have unpaid bills, any business does.

Mr. SUTHERLAND (Cook). They were taken care of out of the general appropriations?

Mr. SPAULDING. Not at all; they were taken care of out of the current receipts. Before any profits were shown these unpaid bills were deducted from our earnings. You are thinking about a cash account and I am talking about an entirely different thing.

Mr. SUTHERLAND (Cook). What I would like to know is whether the appropriation for these bills came out of your corporate fund?

Mr. SPAULDING. No, sir; no money has for several years except the regular monthly payments for street lighting.

Mr. SUTHERLAND (Cook). And you base your charge for street lighting on the same relative basis that you charge for private consumers?

Mr. SPAULDING. We think our rates are fair; it is not exactly on the same basis.

Mr. SUTHERLAND (Cook). Now, with reference to the Commission Form of Government Act under which you are operating, when did Springfield adopt that?

Mr. SPAULDING. In 1911.

Mr. SUTHERLAND (Cook). The Initiative has been used only with reference to utility question?

Mr. SPAULDING. Yes; the referendum has been used on other subjects.

Mr. SUTHERLAND (Cook). Your adoption of it followed the race riot troubles in Springfield by some three years?

Mr. SPAULDING. Yes.

Mr. SUTHERLAND (Cook). With reference to taxation, which is an important question with us here, both in general and with reference to home rule of municipalities; do you favor leaving the fixing of the maximum rate of taxation with each city for corporate purposes?

Mr. SPAULDING. Well, I don't care to discuss that. I have no fixed opinion and a person's judgment is only valuable in proportion to their information, and I don't feel informed on that subject. I think cities are restricted too much in their right to run their affairs, including taxation.

Mr. SUTHERLAND (Cook). In general your views on taxation accord with the single tax program, do they not?

Mr. SPAULDING. I think they would run like this: I think it is only a question of a short time until men will be ashamed to say that they are not in favor of putting a larger tax on unearned increment than on other kinds of property.

Mr. CRUDEN (Cook). What are your charges per kilowat hour to the consumers in Springfield?

Mr. SPAULDING. The charge is six cents per kilowat hour for the first 30 hours, and three cents for all over, less a discount of ten per cent; the average paid by commercial users the past year was about three and one-half cents per kilowat hour.

Mr. MOORE (Macon). Did I understand you correctly, Mr. Spaulding? I got the impression, when you said if we did not adopt the proposal here to give the city the power to own all utilities, that the city would go out and beat the Constitution.

Mr. SPAULDING. I simply expressed my opinion. I said, and I still say, that I would be very much surprised if the people of the State of Illinois would accept a Constitution which did not give them the power to take over utilities when they were ready to. I did not mean to take over utilities, unless they want to.

Mr. MOORE (Macon). I asked you if you said if we did not adopt this proposal and give you power to take over utilities, you would go out and beat the Constitution.

Mr. SPAULDING. I did not say we would go out and beat it. I have no such egotistic notion of my importance as that. I said I believed the people of the State of Illinois would defeat a Constitution which did not provide that.

Mr. MOORE (Macon). When you made that statement, were you speaking in your official capacity or merely as an individual?

Mr. SPAULDING. I was expressing my own opinion, and not committing the League, nor anyone else, to it.

Mr. MOORE (Macon). As for myself, I happen to be in favor of giving greater authority to municipalities, but I think that is not the spirit in which this Convention should be approached, and I think you will do very much better, and other speakers, not to approach us with threats. We are not here to be threatened, we are here to listen to reason.

Mr. SPAULDING. I had not the least idea of threatening you. I was merely expressing an opinion of the sentiment of the people on this particular subject.

Mr. MOORE (Macon). You are not the first offender; but, for myself, I intend you shall be the last. You happened to be the one who exhausted my patience.

CHAIRMAN GARRETT. The next speaker will be Mr. William C. Barber, the mayor of the City of Joliet.

Mr. BARBER. Gentlemen of the Convention: May I be permitted first to qualify? Mr. Spaulding told you of an organization in the State known as the Illinois Municipal League. During the years 1916 and '17 I had the honor to be the president of that league and through that office I came in direct contact with other municipal officers scattered all over the State, which gave me the opportunity of comparing the practices in Joliet with the practices then obtaining in the other muunicipalities. I am not a lawyer. I have no expert qualifications. I am just an ordinary business man, and I am here, if I may, to give you any information that I may possess which will lead you gentlemen to get a clearer understanding of municipal questions now under discussion.

I might just as well take the time at this time to read into the record something I have been served by one of your members notice would have to come forth. We have had one or two referendum elections in Joliet. Joliet adopted the Commission Form of Government early in 1915. On May 5, 1915 I became mayor under the Commission Form of Government as the first mayor under that form. I have continued from that time to the present time to serve in that office. As you gentlemen know, under the Commission Form of Government, if an ordinance passed by the Council does not meet with the approval of the people, unless it is an emergency ordinance, thirty days must elapse before it may become effective. During that thirty days any ten per cent of the people in the community may attach their signatures to a petition asking for referendum of the ordinance which has been passed by the Council. The Council then has one of two courses open; it has either to repeal the ordinance under question as it then stands or it must call an election and send the ordinance up to a vote of the people. If a majority of the vote cast at that election is against the ordinance, it immediately by that vote becomes null and void.

Now, in the year 1917 the then legislature saw fit to attach to what is known as the park tax of two mills a clause causing a referendum before the tax could be collected. My predecessor had been in the habit of drawing down the two mill tax for the maintenance of the parks and play grounds in Joliet. That act of the legislature comepelled us to put the tax to a vote of the people for approval or disapproval. At that time we were very much in need of finances for operating all the departments of the city, and the same legislature had seen fit to pass an enactment raising the limit for corporation taxes from 1.2 to 2 per cent, provided a referendum sustained the action of the Council. We also had at that time a piece of property in the down town district of about a quarter of a block which, in the opinion of the then Council, was not adequate for the building of a city building. It had been bought as a city hall lot and the council was of the opinion it should be sold and the lot would return to taxation and the money invested until such time as we could develop a civic center elsewhere. The council also thought it was necessary under our financial exigencies to pass what is known as a vehicle tax. The vehicle tax was a small one, but it specifically stated it was a fund for the maintenance of the streets and alleys in the City of Joliet only, the thought being that the vehicles which wore out the pavements ought to contribute something to their maintenance and repair. Those four items were put up to the people of Joliet at a referendum election vote on the 8th of December, 1917. The proposition to increase the limits of 1.2 to 2 per cent brought out a vote of 499 in favor of the proposition and 1,534 against it. The proposal to sell the city lot got a vote of 350 in its favor and 1,694 against it. The ratification of the park tax got a vote of 278 in its favor and 1,185 against it. The vehicle tax received a support of

568 votes and received 1,444 against it. In other words the whole four issues were lost by a vote of practically three to one, about 25 per cent in favor and about 75 per cent against it.

The total vote of Joliet at the last mayoralty election was 14,578; there is a total vote cast at this election of about 2,000; that is about our experience on matters sent back to the people; there is always somebody ready to attack any government; you know that as a matter of fact in your own government; you will always find those men getting out and endeavoring to make political capital out of the situation. This was after a reasonable campaign of education and we only got out about 2,000 votes out of a total of 14,500 votes. The question of the increase of 1.2 to 2 per cent was carried back again to the people under this direct referendum; the people in the city employ were inadequately paid, and if the people ratified this increase of taxes it would produce enough to give a 25 per cent increase to all the employes outside of the members of the Council, and when it went before the people the second time on that basis the people in the City of Joliet sustained it by a small majority. I think that, gentlemen, covers the referendum during the last five years in the City of Joliet.

Mr. SCANLAN (LaSalle). Will you tell us what kind of campaign was made by the persons affected by that ordinance?

Mr. BARBER. We have a Taxpayers' Protective League; (that is a misnomer, it is a bunch of antis) and the president of that league owns a Ford and the tax on that would be about five dollars; he worked his head off to defeat the proposition, and he got enough strength so that in the vote it was lost. Trucks were asked to pay as much as $20, according to horse power; the tax went from five to twenty dollars, and the proceeds were to be made a trust fund to keep the pavements in repair.

Mr. RINAKER (Macoupin). What was the total vote on the second referendum?

Mr. BARBER. I don't think the total vote on the second referendum was much more in volume that the first vote, I do not think we had over a total of 2,500 votes.

Mr. RINAKER (Macoupin). Was that a pretty earnest fight?

Mr. BARBER. The second fight was, yes. The employes of the City of Joliet were vitally interested because it meant a 25 per cent increase in their compensation, and they did some effective work. In our first campaign some of the city employes actually voted "no" on that same proposition but when it was presented to them and they understood it they went ahead and worked for it, of course. Pardon me for injecting the I. & R. into this discussion, but I blame the administration of the City of Joliet for not being sufficiently careful in its campaign of education before the matter came to the people.

Mr. FIFER (McLean). That is expensive, isn't it?

Mr. BARBER. Yes, that is the trouble, we didn't have the money.

Mr. CARLSTROM (Mercer). In order that the delegates may not be laboring under a false impression, you are not coupling the proposition of municipal home rule with the general proposition of the initiative and referendum, are you?

Mr. BARBER. I am not.

Mr. CARLSTROM (Mercer). And is any person authorized to do so by the Illinois League of Municipalities?

Mr. BARBER. Not that I am aware of.

Mr. HULL (Cook). Have you any publicly owned utilities in Joliet?

Mr. BARBER. We operate our own water works, but under the statute of 1917 a definition is had in the act which enumerates what shall be deemed public utilities, and water works are left out, if you remember.

Mr. BRENHOLT. I move we take a recess until two o'clock.

(Motion prevailed.)

Whereupon a recess was taken by the Committee of the Whole to Thursday, April 1, 1920, at two o'clock p. m.

2:00 o'CLOCK P. M.

The Committee of the Whole reconvened pursuant to recess.

Chairman Garrett, presiding.

CHAIRMAN GARRETT. We will proceed with the hearing. We have a gentleman with us who will next address us who I believe needs no particular introduction, Captain Charles E. Merriam, of Chicago.

Mr. MERRIAM. Mr. Chairman and gentlemen of the Committee: I am here as one of the committee of the Illinois Municipal League. I do not know whether Mr. Spaulding explained that, following the last meeting, they appointed a committee on the Constitution and that resolutions were adopted which he read, and that the committee was instructed to appear, if possible, before this Convention and to state the grounds for the resolutions they had adopted.

The Constitution of 1870 undertook to deal with municipal problems in a particular way with a design to meet the particular evil of that day. The trouble they were addicted to in the later 60's was the passage of special legislation regarding particular cities, and if we turn back to the laws of that time you will find thick statutes regarding the minutiae of government of almost every city of the State. They undertook in 1870 to stop that practice by prohibiting local and special legislation, and the expectation was that that restriction would effectively remedy most of the evils that the cities were complaining about. That did not work out, however. Not a long time had elapsed before they had begun the practice of classifying cities and enacting laws applying to cities having 250,000, and a million population later on, and the second was by providing laws like the civil service laws that might be adopted by the city if it chose to take up the particular laws. Now, so far as the City of Chicago goes, still further efforts were made to broaden the scope of the local authority. An agitation was carried on for nearly ten years which finally culminated in the charter amendment of 1904. By the terms of the charter amendment of that year it was thought that the situation as far as Chicago was concerned had been met, because the act provided, "The General Assembly shall have power, subject to the conditions and limitations hereinafter contained, to pass any law, local, special or general, providing a scheme of charter of local municipal government for the territory now or hereafter embraced within the limits of the City of Chicago," omitting the words "for Chicago." Under the charter amendment of 1904 we have now been operating for sixteen years, and we have not been able to obtain the relief expected. There was secured under the amendment of 1904 the abolition of the justice shop system and the establishment of the municipal courts. There were certain fragments of the charter passed, sometimes called the rump charter, which gave to the cities certain powers; they extended the term of the mayor, cut out the election of the City Attorney and made other minor changes. In 1907 a charter commission was appointed on the initiative of the City Council, a commission made up partly of members of that body, partly of the upper and lower houses and partly of local bodies and members appointed by the Governor. I had the honor of being a member of that commission and we worked for nearly two years elaborating the details of a draft of the charter of Chicago under the amendment of 1904. That charter Convention was made up of a variety of types of men. There were radicals and conservatives of factional and partisan beliefs, but a compromise was finally reached which was approved by practically the entire Convention. We came down to the legislature, however, and then the balance of the compromise was upset and the law was taken back to the City of Chicago and was defeated by a very large majority. This charter was merely a bill for an act, and it was necessary to transmit it to the legislature. The legislature in its wisdom omitted many elements of the compromise, and added many features obnoxious to the voters, including a gerrymander of the wards of Chicago which was operative until 1920. We brought down 11 separate bills in the next legislature; we reconvened the commission, and brought down those to this body. None of the bills were passed at all; in 1915 a charter commission was appointed

by the Council or Mayor and we spent many hours in patient work. Some things came out of that, but nothing at all like the comprehensive charter, so we may after 16 years of trial say that the charter amendment of 1904 is not, as experience shows, a practicable and workable instrument by means of which Chicago can obtain relief in the powers of local government; and the main difficulty lies in the fact that the legislature has interfered from time to time with the plans that have been brought down here, or has so interfered with them that the people of Chicago did not want them.

Now, we have the general proposition that affects all the cities of the State. To my way of thinking, so far as home rule is concerned, the treatment of Chicago need not be any different from the other cities in Illinois. Their problems and Chicago's are very much alike in almost everything except the one problem of consolidation where there seems to be a peculiar local question in Chicago with regard to Cook county. I may be wrong upon that, because it has developed in the course of a discussion that there are also local consolidation problems throughout the State in other cities, and the effort has been made to provide for consolidation on a State-wide basis in the various drafts introduced on home rule or local municipal government.

I would not have the time here because of the other speakers to discuss the whole problem of municipal home rule, because it is a complicated subject, and I am endeavoring to hold myself down to a very few minutes. I can summarize the principles on which the Illinois Municipal League stands under certain heads:

First, in regard to the structure of the government, we believe that the city ought to be given a constitutional status; that so far as the problem of local government goes, the cities ought to have power to make their own charters. That would not mean they would control the judicial system or the general election system, but so far as the ordinary detail of municipal government went, that power ought to go to the municipality. For example, if the city wanted to have a commission form of government, let them have it, or a commission manager plan; or partisan or non-partisan election; as to local matters, as to electing aldermen for four, two or three or one year, that seems to be a question they could decide better than anybody for them; and therefore the Illinois League has agreed that in the matter of structure and organization they would ask the Convention to give to all cities of Illinois without discrimination the right to make and amend from time to time as they thought best the structure and organization of their own local municipality.

In the second place the League is of the opinion that the principle under which the general powers of the city are conferred ought to be somewhat altered. The presumption now is against the municipality. There are many lawyers here, and we all know that under the decision of our courts, notwithstanding the early and vigorous opinion given by Judge Cooley that the law is that the city has no inherent right of local self government and powers are given by enumerated grants. You are familiar with the fact that in a specification of items the things not enumerated are excluded.

If a city undertakes a particular piece of work, the presumption is against them. They may be able to discover by some process or implication that the proposed power is a necessary power of municipality, or they may be able to develop it from the Cities and Villages' Act of 1872, but the chances are against them. I am not speaking so much in detail of the down State cities but speaking of Chicago, and in detail of the practical difficulties that beset a city that tries to move ahead at every step of the way. For example, I happened to be secretary of the Chicago Harbor Commission in 1907; we worked out an elaborate plan for the improvement of the harbor facilities of that port, but when we attempted to actually construct a pier at the north of the mouth of the river we found it necessary to have a grant of power from the legislature, and as I stated before the members of Senator Hull's committee, we came down in 1911 and got one grant; we came down in 1913 to modify that grant; we came down in 1915

to modify the amendment of the first grant and came down in 1917 to modify the amendment of the amendment.

In the first place, we lacked the corporate power, and in the second place it appeared that while the city had the right to operate a pier for commercial boats that a particular part of the pier, the recreation feature, was not within the purview of the law, and we could not operate the recreation feature of the pier because that was not in the law. And then in 1915 when they started to open the pier it was discovered at the very last moment that the City of Chicago did not have the power even to sell peanuts on top of the pier, and it became necessary to come down to the legislative body to get this law passed, which was to the effect that the city had the power to make contracts for the sale of food, non-alcoholic drinks and merchandise, to give dances, concerts and other entertainments and for check room privileges and other privileges incidental thereto. We had to come down to the legislature and take its time and get the signature of the Governor to get so minor a right as to check somebody's hat on top of the pier.

The city again was in a controversy with a private garbage plant. We could only under the law make a contract for garbage removal for one year. The result was since we could make it for one year only, the man who got the equipment said, "I cannot make you a low price; at the end of the year I may not get the contract; consequently I will have to charge you something to make up for my short term," and it became necessary to come down to the legislature of Illinois to get the power to make a contract for garbage removal for a period of five years, and in the meantime the City of Chicago lost the money that they could have made had they possessed the power to make that sort of contract for two, three or four years.

If you take up the business side of the government of the city, you will find that the lack of authority disturbs at every turn of the road. I am not speaking from speculation. I was in the City Council for six years and a member of the Finance Committee for some three years, and before that a student of its affairs. I have not the time because of the necessary and proper limitation to give you the cases, some of which I gave before the committee, but I will give you this by way of illustration: The State law requires the city treasurer to give a bond equal to the amount of the income and outgo of the city, and that made a bond, as Mr. Traeger said, of $28,000,000. Who can give a bond of $28,000,000? The result was that the incoming treasurer made arrangement with the banks by means of which they went on his bond, and in return for doing that they took over the public funds of the city at a much lower rate of interest than would otherwise have obtained. That cost the city $100,000 a year for many years. First, they made a contract with the treasurer by which he gave over half the interest to the city, and then sixty per cent; various other arrangements were made, some public and some private. The point is that the unnecessary requirement of a $28,000,000 bond for the treasurer for the City of Chicago cost the taxpayers of the city $100,000 a year. We finally got the legislature to change that law so that now they give no such absurd bond. A larger bond than the treasurer of the United States is required to give was required of the city treasurer.

We made an inquiry at one time in regard to the duplication of offices in the City Hall. I was in charge of that. We found, for example in three offices of the treasurer, comptroller and board of local improvements, that there were three sets of books kept in regard to the local improvements. A number of men were employed upon them. The books are practically identical, but there we had a loss estimated at about $50,000 a year. We endeavored to change that; when we came to change that we found it was impossible because the law prescribed certain duties for the treasurer, certain duties for the comptroller, and each one of them was fearful he might leave himself unprotected, and to guard himself against that difficulty he kept the same set of books that the others kept. Instead of helping the city out, it hurts it; it costs the city money. Sometimes the question comes out, which is the proper set of books; our recommendation was that the work be done

in the Board of Local Improvements where it could be cared for, at least where one set of books would answer. These are specific instances. I might drag that out at much greater length, but they all point in the same direction, namely, that in the conduct of ordinary business, in the narrower circle of municipalities, they are hampered by the lack of power to proceed. What the Illinois Municipal League stands for is a reversal of the principle that the presumption is against the city; to grant to the city a power to do whatever is local in its character, subject to the state laws. Of course that might lead readily to misunderstanding. It does not mean the power to do everything, but the particular thing that the courts would finally hold to be local in their nature; the city would not touch the fundamental laws in regard to persons or property or in regard to any other matters of State wide interest, but only in that relatively narrow circle of affairs that the courts will hold to be local, there they will have the power to proceed. If the legislature wishes to stop them by positive act it might do so, but if it didn't act the presumption would be in favor of the city. It could go ahead. If they went too far, in the opinion of the legislature, it could step in, and by positive act undo what the city had started to do. For example, under that system, if the city wanted to build a convention hall, the presumption would be they had the power. Now, the presumption is the other way, and we have to get a specific power to do that.

You might say, "What harm is it to come down to the legislature for these matters?" The harm lies in the loss of money and the loss of time and time is money. The city loses always; the occasion arises and then you wait for the legislature to meet, and you may have to come down two or three times, maybe never get it. It not only takes the time of that municipalities, but of the law making body; it not only prevents the local officials from doing what they stand ready to do, but prevents the legislature from doing the thing they ought to do. They may be considering matters that are of common interest to the entire people of the whole State.

Now, then, comes the special matters of financial limitations. The recommendation of the Municipal League is that the matter of limits on tax rates and debt be left to be provided by law as at the present time. If an increase in tax rate is desired, the city will come to the legislature and obtain the power, and of course if any borrowing power is desired they will obtain the necessary power from the law making body.

We have the City Council's proposition which is that the debt limit be fixed by the Council subject to the approval of the governor on the recommendation of the Board of Tax Commissioners. Other propositions have been made that the tax rate be subjected to the act of the legislature plus the local referendum. The action of the League was that both the tax rate and the debt limit be left to be determined from time to time by the law as fixed by the legislative body here. Obviously, that is a large and complicated subject upon which there might be an honest difference of opinion, I must pass that by. Everybody agrees either in the Chicago draft or the State-wide draft that there should be a limit fixed upon the tax rate, that is, that the city should not be allowed to fix its own rate, and there should be a limit fixed upon the borrowing power and the city should not be allowed of its own option to fix its own borrowing authority.

Now, then, comes the matter of public utilities. That question is an important subject on which gentlemen are to speak directly for some three hours, and I will not undertake to cover the subject in three or four minutes, only to say this much, that the Illinois League stands for and asks for the insertion in the proposed Constitution of a grant of power to the municipalities to finance the purchase or construction of public utility plants. In fact, in asking for that, they are asking for nothing more than the State of Illinois intended to give them nearly twenty years ago in the Mueller Law, that was passed by the legislature in Illinois and was designed by the use of street railway certificates or Mueller law certificates to make possible the financing or purchasing of public utilities. These so-called Mueller law certificates were obligations secured by the street car property itself, but in

the well known case of Lobdell vs. City of Chicago the Supreme Court held that while such certificates might be issued, they must be within the borrowing power of the municipality. At no time since 1907 has the City of Chicago been in the financial position, although legally authorized to do so, to take over the street car lines. General authority for the acquisition of all local utilities was conferred upon the city by the act of 1913. Without financial power, however, this authority does not amount to very much. It is generally agreed upon as a sound principle of municipal government, that municipalities should possess full authority, both legal and financial, to acquire public utility properties by purchase or condemnation, or to construct such properties.

An elaborate report of the National Civic Federation, was made in 1907, by a group of men representing public utilities, labor and all shades of opinion. Melville E. Ingalls, chairman of the Board of Directors of the Big Four was chairman, and John Mitchell, the well known labor leader, first vice-chairman. They recommended, with practical unanimity, that authority to municipalize be conferred upon all cities. Upon this particular point their recommendation was as follows:

"We recommend that the various states should give to their municipalities the authority upon popular vote, under reasonable regulations to build and operate public utilities, or to build and lease the same, or to take over works already constructed. In no other way can the people be put upon a fair trading basis and obtain from the individual companies such rights as they ought to have. Without such authority it is clear that the municipality cannot deal upon fair terms with the private corporations. The city should have the alternative either of public or of private operation or ownership. The municipality should be able to turn whichever way it chooses, as conditions may dictate. The municipality should be in the same position respecting public utilities as it is in regard to renting. If the city can secure room for its needs more cheaply by leasing, it may do so. If, on the other hand, it concludes that on the whole, price, service and other conditions considered, it would be better to build than to rent, that alternative is open to it. This principle is generally agreed upon by all students of this subject. It should receive constitutional recognition, and an ample grant be made of the financial power to take over utilities. This can be accomplished practically by exempting municipal investments in revenue producing undertakings from the debt limit. Such constitutional provision has been worked out in a number of states, and should be applied in Illinois.

For half a century Chicago has been shackled. Constitutional and statutory limitations have entangled and embarrassed the city and hindered its vigorous growth and development. Year after year the city has struggled for power adequate to its responsibilities, but it has never been able to secure recognition in any manner adequate to its great needs. The piecemeal legislation doled out by the General Assembly from year to year has been wholly ineffective for the city, and burdensome to the legislature.

The constitutional amendment of 1904, obtained after a long struggle was designed to grant to the city of Chicago a complete scheme of local self government, but this dream was not realized. The hour when the amendment was passed, serious limitations were imposed upon its scope by the legislature; and since 1904, the year of its adoption, it has been impossible to obtain under that amendment any material relief, except in the reorganization of the justice courts.

Chicago does not ask more than it needs. We do not ask for powers that are properly State powers. We ask only for the authority that is primarily or predominately local in its nature. We ask only for such authority as is necessary to enable us to do well the practical municipal tasks that lie before us year by year. Chicago is an integral part of the State of Illinois. We are as much a part of Illinois as you are. We are as proud of our history, our traditions, our Grant, our Logan, our Lincoln, our great industrial, commercial and agricultural achievements, as any other patriotic citizens of Illinois. We share in Illinois' ideals and its hopes for the future. We rejoice to take counsel with thoughtful and honest men from all parts of this

great commonwealth in an effort to arrive at plans which will reflect still greater credit upon an already illustrious commonwealth.

Illinois has inherited great traditions in the military achievements of Grant, and the democratic policies and statesmanship of Lincoln but traditions and inheritances make an individual or a State great, not when they mark the farthest limits of progress, but when they point the way along the dusty, upward, winding road that leads to higher levels of achievement.

Chicago is one of the world's great cities. Great in area, great in its numbers, great in its money power, great in its man power, great in its industries and its institutions, great in its democratic sympathies, great in its engaging possibilities of future growth and progress. We appeal to the citizens of Illinois to give to the City of Chicago that freedom to act within the circle of local interests which our great metropolis sorely requires.

We have struggled through what seemed at times insuperable difficulties, over graft, spoils, politics and special privilege, toward the goal of a freer city. Back of the many divisions of our local government, back of the divisions made by the geographical lines, by the west and north and the south sides, back of the divisions made by cosmopolitan races, behind the division drawn by religious differences and the animosities engendered by party prejudice and factional bitterness, there is a genuine Chicago spirit, representing a common interest, purpose and hope. It is this spirit of Chicago, this will and judgment of the mass of our people, deeper and broader than party or personal disputes which we ask you to emancipate; upon which we ask you to confer that reasonable liberty of collective action which is essential for the full and free expression of the life of our community of more than 2,500,000 people.

Chicago is not a city without vision or energy or determination or constructive ability. On the contrary, its people breathe the air of hope and look confidently forward to a great municipal future, great not merely in money power and in material things, but also in those finer qualities that make the lasting renown of any city or of any State. But today we cannot govern our own local affairs, and no one else can do it for us. To leave a great city in this sorry plight is neither good businecs, good politics nor sound statesmanship.

We ask the members of this Convention for that reasonable measure of relief which you alone can grant. And in so asking, we are not unmindful of the needs of our sister cities of Illinois who have in common with us much the same perplexing difficulties and the same bright hopes for the future. I thank you. (Applause.)

Mr. DUNLAP (Champaign). The question has been asked the other speakers here in what capacity they were addressing the Convention. Have you any objection to stating whether you represent the City of Chicago? You are one of the aldermen of Chicago?

Mr. MERRIAM. I am a member of the committee of the Illinois Municipal League.

Mr. HULL (Cook). You stated in the circle of local interest you wanted the presumption to be in favor of the city government, except, as I understand it, subject as you said to the action of the State, is that correct?

Mr. MERRIAM. That is correct.

Mr. HULL (Cook). That is not the theory of this proposal of the Illinois Municipal League, number 346, is it?

Mr. MERRIAM. I had no opportunity to see that bill until it came in your committee yesterday; I don't know just how that works out.

Mr. HULL (Cook). It attempts to give the city complete authority, exclusive authority in local affairs and not subject to the action of the State and I was going to ask you which theory you prefer, and expressing your own opinion upon the subject, the City Council's theory or the theory in Judge Jarman's draft?

Mr. MERRIAM. Well, of course, I want to be entirely fair with you. If I sit on a committee and they agree on a certain proposition and they appoint me to represent them and I come down here, the first thing you do is to ask me to give my private opinion; what are my duties?

Mr. HULL (Cook). You expressed an opinion which coincided with the City Council's draft while the proposal which comes from the Illinois Municipal League is entirely different, and I want to bring out the contrast. That is the purpose of my question, to get your answer. One attempts to limit the circle of local powers as against the circle of State powers, and the other makes the powers of the municipality subject always to State powers, and if you don't care to express an opinion as to those differences, I will withdraw the question.

Mr. MERRIAM. My personal opinion is as I have stated. I do not think myself that in the practical workings the difference is nearly as much as the gentlemen who advocate the different ideas believe. I do not think in the Committee of the Whole, that being a very intricate subject, you would have time to do it justice.

Mr. HULL (Cook). I withdraw the question.

Mr. HAMILL (Cook). I understood you in answer to Senator Hull's question to say that some of the things you have said are not in accordance with the recommendations of the proposal introduced at the request of the League?

Mr. MERRIAM. I am not clear myself just what Judge Jarman's draft calls for; I have read that carefully two or three times, but I do not know exactly which theory they were working on there. I do not think when you get down to the practical workings of it there is very much difference between them.

Mr. HAMILL (Cook). In the latter part of your address to us you undertake to tell us what Chicago wants and does not want. Were you speaking as a member of the committee of the Illinois Municipal League?

Mr. MERRIAM. Yes; just as the other gentlemen will speak for their cities.

Mr. HAMILL (Cook). The only authority that you pretend to have is as a member of the Illinois Municipal League?

Mr. MERRIAM. The fact is as I have stated, that I was appointed as a member of this committee and asked to come down here before you gentlemen.

Mr. HAMILL (Cook). I was just wondering how it was that with so much assurance you were telling us what Chicago wants and does not want. Have you been elected to speak for Chicago?

Mr. MERRIAM. I cannot tell you any more than I have. The reason I speak for Chicago is that I thought you would prefer to have me talk on that rather than Jacksonville, Peoria or some of the other cities.

CHAIRMAN GARRET. Our next speaker will be H. J. Rodgers, ex-mayor of Jacksonville, Illinois.

Mr. RODGERS. Gentlemen of the Convention: I want to qualify a little as to myself. I was mayor of Jacksonville for four years, until last May when my time expired: I did not seek returning to office. During that four years I was a member through the City Council of the State of Illinois Municipal League, and attended the various State meetings that they had. I was chairman of the legislative committee of the League during the last two sessions of the legislature to see what could be done for the interests of municipalities. I was president of the League in 1919. The question today, as I see it before the Convention is, shall we give municipalities the right to control their own interests, and I think they should have it. A municipality, as we find it is circumscribed by various restrictions. They have no control of the assessed value of the property or tax rate or the means of revenue. They have no control of the price of commodities, they have no control of the salaries of the employees, that is, they cannot compel a man to work for a price he doesn't wish to work for. When the war came on, it made that more strenuous and the municipalities were in sore straits. We endeavored to get relief by the increase of the bill on municipal revenue which was granted some three years ago with the referendum. The last session granted the increase without the referendum and also increased the assessed value to make it possible to issue more bonds for municipal purposes which has relieved the situation

considerably, but any municipality is still subject to outside influence and control.

The government of our United States has created the State with power to control itself under certain fundamental laws. The State has created the right of the villages and cities, but they are prohibited from doing everything except what they have special rights to do. I cannot understand why a municipality and the officers and the people of that municipailty should not have the right, as they see fit to do by a vote of the people, to govern themselves, as to their indebtedness, as to their owning public utilities or what not. They should have that right. The State has it and the government has it. They have no limit on taxation and the municipality does. If a municipality was self controlled and they should make mistakes, whose loss is it but that of the citizens of that community? Nobody is responsible but them; if they make a mistake they have the power to change it. I believe if we had municipal home rule that the citizens would post themselves on conditions and they would be better prepared to select officers that would look after the interests of the community better than is done now. There are other matters the legislature proposes. They pass bills requiring municipalities to do certain things and at the same time they do not provide the means of financing those requirements. One case that comes to my mind is in regard to Decatur, where the State under the River and Fish Act ordered them to quit putting sewage in the river and killing the fish, and Decatur could not connect their system into one disposition plant until they got special legislation for it.

I think any municipaity ought to have the right to work out their own salvation and to so vote to meet their needs. A man in his own private affairs has control of himself under fundamental laws, and if he makes a mistake it is his. Your home is constructed and maintained in the same manner.

In regard to our water works proposition, we had two sources of water supply, one was a creek and the other was wells; neither was sufficient to supply the city with water alone. The creek water was an abomination when it rained and the other was not enough. We had to do something. We could not bond the city for sufficient amount to purchase the reservoir site that was decided on and put in the filteration plant, we had to start in by private subscription, and in the meantime the legislature in this last session did grant the increase value and bonding privilege so we have been able to take care of the situation, but the city should have that right itself.

I wish to say further that I believe the city officers elected are just as capable and have just as good hearts in the matter to manage their city as the legislature knows what to do to run the State; they are just as capable and they should have that right. I may be a little far on home rule, but that is my belief in the matter. A fundamental thing is to give the city the right to control its own business the same as an individual. That is all I care to say.

Mr. BRANDON (Kane). I was in a meeting of the committee yesterday afternoon when this proposal 346 was considered. You have gone over it, haven't you, Mayor?

Mr. RODGERS. Just this morning.

Mr. BRANDON (Kane). I was trying to reach the point that Captain Merriam spoke about in the conclusion of his remarks, in which he said he did not see much distinction; as I get it from reading that proposal, it would give the municipality certain powers that the legislature could never touch. In your judgment is not that true?

Mr. RODGERS. I will answer it in this way. The municipality ought to have the right to do anything they are not prohibited from doing, the same as a man is; he can do everything he is not prohibited from doing.

Mr. BRANDON (Kane). Is it your notion that this proposal sets up certain things as being functions that the legislature may be barred by the Constitution from interfering in in the future, or is it your understanding that the legislature, if it sees fit, may at any time do anything that the municipality—with the municipality that it wishes to do by general law?

Mr. RODGERS. I do not see where there would be any use for the home rule if the legislature could take that away from the people.

Mr. BRANDON (Kane). Then you do believe that 346 attempts to describe certain functions of the municipality into which the General Assembly by general law may never enter, if those functions are strictly municipal?

Mr. RODGERS. Yes.

Mr. BRANDON (Kane). Would you say for the sake of argument that the accounts of a city, the method it used in the keeping of its accounts between its departments would be a strictly municipal function under this draft?

Mr. RODGERS. Yes; it should be.

Mr. BRANDON (Kane). The State has reserved to itself the right to investigate banks and determine that banks must use certain methods of accounting in order to facilitate investigation of banks by the State. Would you say that this Constitution should embody a provision that would prevent the General Assembly of this State from requiring of the municipalities who had home rule the adoption of a uniform system of accounting so that the State might go into the municipality and investigate it even as they investigate banks?

Mr. RODGERS. I don't see where it would hurt them.

Mr. BRENHOLT (Madison). What is the present indebtedness of the City of Jacksonville?

Mr. RODGERS. About $280,000.

Mr. BRENHOLT (Madison). What is the amount, the value of property on the tax books?

Mr. RODGERS. $6,600,000 assessed value; they have used their bonding privileges up to $30,000.

Mr. BRENHOLT (Madison). And that will cover the total amount possible for you to bond the city?

Mr. RODGERS. Yes, sir.

Mr. BRENHOLT (Madison). How many people have you there?

Mr. RODGERS. Fifteen thousand, six or seven hundred.

Mr. BRENHOLT (Madison). How many people on the tax books?

Mr. RODGERS. I could not tell you exactly, but Jacksonville pays two-thirds of the county tax.

Mr. WALL (Pulaski). You said a while ago that the government had no limit and the State had no limit. Do you believe that the city municipalities should not have any limit?

Mr. RODGERS. I am perfectly willing to leave it to the people.

Mr. WALL (Pulaski). Do you think the Constitution or legislature should not fix any limit on the municipalities?

Mr. RODGERS. That is up to the people.

Mr. WALL (Pulaski). Would you be willing if the people voted on it to run the municipality in debt 1,000 per cent?

Mr. RODGERS. I would be against it, but I believe in the majority ruling.

Mr. WALL (Pulaski). Regardless of the consequences in reference to the indebtedness?

Mr. RODGERS. If they had that form of government, you would see the electorate attending to their business.

Mr. HULL (Cook). You are familiar with the bill of rights, aren't you?

Mr. RODGERS. I do not know that I am, fully.

Mr. HULL (Cook). That is a limitation upon the power of the majority in certain things, is it not?

Mr. RODGERS. Yes; I suppose so.

Mr. GALE (Knox). Did I understand you to say that you were in favor of no limit in the Constitution on indebtedness of municipalities?

Mr. RODGERS. I would be willing for it if the people voted for it.

Mr. GALE (Knox). The present limit is five per cent. You would be in favor of no limit?

Mr. RODGERS. I would give them power to do whatever they wanted to.

Mr. GALE (Knox). Don't you think the rest of the State has an interest in each municipality keeping its credit reasonably good, at least in avoiding bankruptcy?

Mr. RODGERS. Well, very little, the people of that community would have to meet the obligation.

Mr. GALE (Knox). You do not think it would concern the rest of the State if Jacksonville were to incur an indebtedness which it could not meet?

Mr. RODGERS. It is nothing more than like a business man or bank failing. It hurts the general community, of course. That is all the difference I can see, it would hurt it incidentally is all.

Mr. GALE (Knox). How would you say that would apply to Chicago, if Chicago would default on its bonds?

Mr. RODGERS. The rest of the State would not be liable for the obligations of the City of Chicago. If they had the assets and business ability to run their business, how would it hurt their business?

CHAIRMAN GARRETT. The one side of this municipal question has under the program arranged until four o'clock. There are two other speakers and I am compelled to ask them to divide that time between them, owing to the arrangement that was entered into this morning. I am going now to call for our friend Professor A. R. Hatton, field director of the short ballot organization of the National Municipal League and author of the Home Rule provisions in the Ohio Constitution.

Mr. HATTON. Mr. Chairman and gentlemen of the Convention: Perhaps the apology that I owe, if I owe any at all for appearing here, is that I acquired my first deep interest in municipal affairs in the City of Chicago. I lived in the City of Chicago for something over six years and it happened that I was connected with the Charter Convention of 1906 and 1907 of which Mr. Merriam has already spoken. I was asked to prepare the material upon which that convention worked. Since that time I have been devoting more or less of my time to the question of city government, and in order that I may obviate, at the beginning, some questions that will later be asked, permit me to say that while I come as field director of the National Short Ballot Organization, in what I am going to say to you on the question of constitutional municipal home rule I am expressing my own opinion; I am not representing the Illinois Municipal League or anybody but myself, but it was thought in view of the fact I had been giving a great deal of attention to this question—I was intimately connected with the home rule movement in Ohio which is one of the prominent states granting this right to cities—my observations might be of some advantage to you.

The origin of the movement for home rule in the United States grew out of the feeling on the part of the people in cities, not in one state, but many states, that they could not depend upon the state legislatures to appreciate their problems and to grant them the forms of government or powers necessary to meet their local needs.

It began in Missouri in 1875 and has spread across the country to the Pacific Coast and has come back to Ohio and is now extended to Maryland so far as the City of Baltimore is concerned, and to counties in Maryland. There are 13 states in the Union in which one form or another of the so-called constitutional home rule is granted to municipalities. The original Missouri provisions passed in 1875 are very defective and cautious in substance and awkward in their form. California followed three years later, California has proceeded step by step to amend the original provisions until now the powers granted to cities in California are perhaps broader than those granted to the cities of any other State in the Union. Next to California I am inclined to think that the provisions in the Constitution of Ohio are the broadest. I have lived in Cleveland for 13 years, all the time since I left Illinois in 1907. I was chairman of the committee representing all the cities in Ohio which presented the question of home rule to the Convention of 1912. In large measure I drafted the present provisions of the Ohio Constitution. I later sat as a member of the commission which framed the first home rule charter of Ohio, that of Cleveland. I have been pretty

intimately in touch and observed it in the United States during the last thirteen years.

Now, it has been said that the essentials of home rule involve two distinct features. In the first place it involves conferring in the Constitution upon cities the power over the mere structure of their government the power of the city to determine what the mechanism of the government shall be; that is one of the features of home rule. The other, and one which may be kept somewhat distinct from it, is the question of conferring through the Constitution the power which the city may exercise once it has adopted a charter.

I am not going to discuss those points because Mr. Merriam has elaborated them sufficiently. I wanted to call your attention to a few things as the result of my observation throughout the United States because I am giving all my time to the actual framing of city charters, and the operation of home rule provisions in the various states that come directly and intimately under my observation.

I wanted to pay some attention to the question of the result of granting home rule to cities upon the State governments themselves. Personally I believe that a good case can be made for home rule merely from the State's standpoint. My own observation has been that granting of home rule to cities through the Constitution has been of quite as much advantage to the State as it has been to the cities. For instance, it results in a tremendous saving of legislative time, as has been suggested this afternoon. Taking one State with another in which home rule is not granted to cities, I think you will find that one-third of the time of the legislative session is taken up with the consideration of measures of minor importance; of great importance to the individual city perhaps, but of minor importance to the State. Now, the legislature, I contend, cannot in the very nature of the case foresee all the things which will from time to time concern a city. It is not altogether a case of the unwillingness of the legislative body to confer adequate power, but so long as the powers are conferred by specific enumeration there is no body of men wise and foreseeing enough to determine even six months in advance what important question may confront a city. I have had case after case come under my own observation which confirms. I recall a particular case in the State of Iowa. The City of Burlington has a stream running through it. A few years ago they put through a large municipal improvement which consisted in covering that stream, which really made it a sewer. After this work was well under way it began to appear that unless they were able to control the water that came down in time of freshet, that a flood was likely to ruin the entire public improvement; and possibly do great damage to the city as a whole. They found by the expenditure of a few thousands of dollars for putting in a dam at inconsiderable expense they could hold back the water and safeguard the interests of the city. Yet when they came to examine the powers granted to the city they discovered that while the legislature had in its foresight granted the city the power to acquire land for sewer outlets, they had not granted power to acquire land for sewer inlets. The result was that they waited in fear and trembling until the legislature could meet. Fortunately there was no flood and they got the power and made the improvement. That is one case that occurs to me offhand.

I have heard a great deal in regard to the ineffectiveness of government as conducted in cities. I am prepared to say, after these years of observation, that if a private business were placed under the restrictions that our states have placed upon their cities, the private business would be inefficiently conducted as that of the cities if it could be done at all. We do not think of imposing the restrictions upon a private corporation in the conduct of its ordinary business affairs, that we insist on imposing on cities. It is simply a matter of common sense that we must give the city power to conduct its business if it is to be done in an effective way.

The question has been asked whether in this grant as presented by the Illinois Municipal League, the State legislature would be deprived of the power to set up a uniform system of accounting in the cities. I think prob-

ably, as it stands the State would not be so deprived of that power. When I first drafted the home rule provisions which are now in the Constitution of Ohio, I provided that the legislature should have the power to establish a uniform system of accounting throughout the State. When that came to the attention of some of the ablest and most experienced municipal officials they objected on the ground, and I believe it is sound, that it was very much more likely that a city would work out a good system of municipal accounting for itself than that the State would do so. The best systems of municipal accounting now existing in the United States have been worked out by the cities themselves. On the other hand it is important, I think, that under this draft, the legislature should have the right to examine the vouchers, books and accounts of municipalities and of public undertakings conducted by municipalities and power to require uniform reports of financial conditions and transactions. That power could be adequately exercised without forcing on a city a uniform system of municipal accounting. I know accountants themselves are not agreed as to precisely the best method of accounting, and consequently requiring uniformity would not be a good thing. But the State should have the right to examine the books and accounts of any undertaking conducted by a city government; the State should have that power and exercise it. The city should not be placed in a position in which it can cover up its transactions.

I spoke of the saving of legislative time by home rule. Another benefit to the State legislature is, as I observed it, not the entire removal of log rolling, but the very great reduction of it. I am speaking to men, many of whom have had legislative exeprience. You know, that the type of measure which is made the subject of log rolling, which enters into the general plan of dicker and trade in the State legislature, is the type which is not of State wide importance. It is the local or merely sectional measure, which interests some particular group which is the material for log rolling. The result is that when cities come down to the legislature with the best of intentions to get one of their provisions passed some mere change in their mechanism of government, however much they wish to keep it out of the log rolling system they cannot do so. Municipal home rule will make it unnecessary for cities to appeal to the legislature. It reduces the amount of log rolling in our legislative bodies.

Another point I want to emphasize is that municipal home rule granted through constitutional provision, is of importance to the State and of importance to the legislative body because it serves to remove a large measure of that temptation which is constantly presented to legislators when they are permitted to deal with questions and to have power over matters which do not directly affect their constituents. It is an axiom of politics that you open the way to corrupt legislation and corrupt action whenever you give a body of men power over a question in which their constituents have not a vital concern. I am prepared to say that the most corrupt legislation affecting cities with which I am acquainted has not been introduced by members from the cities but by members of legislative bodies whose constituents would not be affected by it. I think that is perfectly axiomatic. As Lincoln said "No man is wise enough to govern another man without his consent." Immediately you put into the power of a body the control over matters that are of paramount concern to a city alone, you present this tremendous temptation. It has been a fruitful source of corruption in many states of the United States. The home rule granted in the Constitution with appropriate restrictions sweeps away a large measure of such temptation and has proved of great benefit to the legislative body and the State as a whole.

I want to call your attention to the effect of home rule on cities as I have observed it. In the first place, wherever home rule is mentioned in any Constitutional Convention, and I think I have read the proceedings of every Constitutional Convention from the original Missiouri Convention down to the present time, there always is the spectre conjured up that by this means you are going to set up the cities independently of the state, as many people are fond of saying, setting up an *imperium in imperio*, and being Latin, of course it sounds impressive. Now, as a matter of fact,

I think we can successfully challenge anyone to produce anything in the home rule states, however broad the powers granted the cities are, any instance in which the granting of home rule power to cities can be said to be injurious to the state as a whole, or deprive the state of any essential power over matters which are of importance to the citizenry at large. It has not occurred. Those fears are more or less born of the fact that the granting of powers to cities through constitutional provision, and in the form proposed here, is a reversal of the long standing practice in dealing with cities in this country and in England. Now, the cities in framing the charters, and there are hundreds of them in the United States, have not indulged in radical action. If you will examine the home rule charters throughout the United States you will be struck by their essentially conservative character. You will be struck by their excellence in form on the whole. I have sometimes said that local charter commissions, in working on city charters to be submitted to people of their locality, have shown a greater inclination to consult the experience of other cities than does the ordinary legislature or Constitutional Convention. I have dealt with literally dozens of charter commissions, and I have found that they proceed with great care to determine what the experience of other places have been, and the result has been we have nowhere any wild eyed experimentation. The cities in home rule charters have here and there in widely separated parts of the country tried out this and that provision, so that today it is literally true that the information that we have acquired as to the way particular provisions operate has come largely through the wise and conservative experimentation of home rule cities throughout the United States. Let me give an instance or two of that. The best authority that we have, the best experience of this country, as to the manner in which different plans of electing city officials, has come from the experience of the home rule states. That experience is so valuable that it has been translated into state laws for the state as a whole. The cities in which the best financial procedure has been set up in the United States are the home rule cities. It is there we have acquired our soundest and our best experience as to proper financial procedure in city affairs. Now, that experience is now being used for the benefit of state government, I cite those two instances. It is out of the experience of the home rule cities that the best experience we have gained in the United States concerning various features of municipal government has come.

It is of tremendous advantage to the city to be able to get its charter with features that fits its local needs. Cities are as individual as persons, and to permit a city to fit its local governmental organization to what it considers its needs is of importance to the city itself and to the state as a whole.

I want also to call your attention to the effect which this right, permitting cities to govern themselves substantially to their own desires, has upon the public spirit and capacity for self government of the cities themselves. If you would take a census of the cities of the United States with the intention of selecting those which are the outstanding cities in competence to manage their own affairs, in interest in local problems, in the elevation of their public spirit, you would find on the whole the great majority of those cities are home rule cities. That is of no inconsiderable importance either to the cities themselves or to the people of the state. I hope that this Convention will not proceed upon the theory that the cities must be saved from themselves, that they cannot be trusted. If the cities cannot save themselves they cannot be saved. And if the cities do not save themselves they will ultimately pull down the whole framework of our institutions. I believe that they are capable of self government. It happens that I am pretty close to the soil myself, so close I was born and reared in a county in southern Indiana that has not a railroad to this day. I owned a farm until four years ago, lived on one until I was 35 years old, and I am going to own another one as soon as I can get to it. My own opinion is that the people of our cities are just as capable of self government as the people of the country districts, and we must depend on them to develop that capacity for self government if they are to be saved and we are to be safe.

I want to make this statement further: If you will take the United States as a whole, there is no political unit which, during the last 15 years, has made the progress in matters of self government that has been made in the cities. I can take you to scores of cities in the United States today whose municipal affairs are better conducted than the affairs of any county in any state of which I know, and which can be compared as to the quality of their municipal administration with the municipal governments of the self governing cities of any country in the world. And those cities are in large measure to be found in those states in which the city has been permitted, yes, in which the city has been required to assume the responsibility for its own salvation. It means a great deal to the people of a city to know that if their municipal affairs go wrong they cannot blame the legislature but that the remedy is in their hands, and that if a cure is not found, it is their fault. The cities of the home rule states are reacting to that. They are assuming their burdens with the result which I have detailed. You could not get the people in the cities of Ohio to consider for one moment returning to the old methods. I think that without exception the charters that have been adopted in Ohio are a great improvement over what had been done before. The tendency on the part of the people is to give themselves simple, responsible and understandable systems of government. They want governments which to operate in the open, and certainly no one would be inclined to say that that is not an advantage.

Just a word concerning the proposals that have been introduced here. There are before the Convention, or will be before the Convention, I assume, essentially two proposals, which as my friend Mr. Merriam says are not so different as some people assume. The proposal presented by the Illinois Municipal League and introduced by Mr. Jarman follows more closely the experience already acquired in other states. It is based more nearly upon the accumulated experience of the 13 states which have already taken this step. Being a person who likes to know how things work, my own predilection is for the general form presented by the Illinois Municipal League, as being the better of the two plans. That plan, in my opinion, has one omission which I would like to see inserted. My opinion is that in granting power to a city to frame its charter the mechanism by which that power is exercised should be put into the Constitution. By the addition of a few sentences that could be done. The proposal as it stands leaves the question of the manner in which the city shall exercise the power to frame a charter to the legislature or to the legislative body of the city.

This proposal introduced by the league does intend, I think, and in that it follows the procedure in other states, to set up a sphere of local affairs within which the legislature is not presumed to intrude. In my opinion that is a wise procedure. However, if you will carefully observe the specification of those things which are to be deemed a part of the power of municipal affairs, which begins at the top of page 4 you will find as to most of those there is some provisions that those specified items shall be exercised subject to some sort of control by law. To that extent what Mr. Merriam has said is true, that the difference between the two plans is not very essential.

I want to emphasize this point in closing. It seems to me there has been a disposition at times to assume that unless some particular thing went into the proposal that you would not have home rule. I wish to warn you against that. Home rule by constitutional grant is not a particular dogma which can be codified and canonized; so that the extraction of one small thing from it makes it not home rule. There are various degrees of home rule, and it is still home rule, if you put in certain provisions permitting the legislature to interfere. That we should keep clearly in mind, and with that I am going to close. (Applause.)

Mr. CORCORAN (Cook). Mr. Chairman, slightly aside from the subject, some gentleman from Chicago claimed it was necessary to restrict the representation of Cook county to save Cook county from itself; is that right?

Mr. HATTON. What is that?

Mr. CORCORAN (Cook). There is some gentleman in Chicago who claims it is necessary to restrict the representation of Cook county in order to save Cook county; you don't agree with that theory, do you?

Mr. HATTON. I am here discussing home rule for cities. I am not going to be diverted from the discussion, if the gentleman will permit me to say so.

Mr. CORCORAN (Cook). On that matter you said it was not necessary to save cities from themselves.

Mr. HATTON. I stand by that, and I think it is dangerous to attempt it.

Mr. HAMILL (Cook). It occurs to me if each city writes its own charter there might be considerable embarrassment to each city when they come to float their securities, with the problem presented to counsel as to whether the securities are properly issued. Has any such difficulty been called to your attention, in California, for instance?

Mr. HATTON. I am not aware of it. That goes to the question of whether you will permit cities to have complete freedom in the amount of debt which they acquire, or whether you will provide that they shall be under limitation provided by law.

Mr. HAMILL (Cook). In any event it would be required of counsel passing upon the legality of a bond issue to examine the charter, and if the charter is general, so that each city is under the same charter as is true in Illinois, when counsel is familiar with that, he can pass upon a bond issue of any city in the State, but if each city is a law unto itself, each counsel will have constantly occurring new questions, and the problem of passing upon bond issues would be much more complex, would it not?

Mr. HATTON. No, no instance of that sort has come to my attention. I am quite sure it has not arisen in my own State of Ohio.

Mr. HAMILL (Cook). I happen to have heard from counsel who passes upon a great many bond issues that that is a constant source of disturbance in California. You are aware, of course, of the fact that these bond issues are ordinarily put out by brokerage houses?

Mr. HATTON. Yes.

Mr. HAMILL (Cook). And the name of certain counsel upon circulars is taken by bond purchasers as to the validity of the bonds?

Mr. HATTON. Yes, sir.

Mr. HAMILL (Cook). Counsel who are engaged in passing upon bond issues find this difficulty: They find it hard to get hold of a charter.

Mr. HATTON. That should be safeguarded by the fact that a copy of the charter is filed at the State capitol.

Mr. HAMILL (Cook). I know of counsel who found it difficult to get hold of a charter of one of the smaller corporations in California.

Mr. HATTON. The charters appear in the session laws of that State.

Mr. HAMILL (Cook). They are counsel in Chicago representing large bond houses.

Mr. HATTON. They could go to the session laws and find the charters.

Mr. HAMILL (Cook). Are you sure all the city charters are in the session laws?

Mr. HATTON. Yes, sir, because the State of California requires the legislature to pass upon the charters, and therefore they are found in the session laws.

Mr. HAMILL (Cook). Each city must be compelled to take some other steps if the charter is adopted which affects the validity of the bond, because this counsel I have in mind would know where to find them.

Mr. HATTON. It might be some question of the ordinance, but as to the charter, they ought to be able to go to the charter.

Mr. HAMILL (Cook). I was not aware that that was the requirement there. Of course, it ought to be easy to make some provision by which the charter could be found.

Mr. HATTON. My opinion is, they should file with the Secretary of State a certified copy of the charter.

CHAIRMAN GARRETT. Owing to the shortness of time, I am constrained to ask the delegates to not question the speaker further. I hate to

do that, but there are a number of other speakers, and if we get through we will have to hurry.

Mr. KERRICK (McLean). Mr. Chairman, I only want to ask one question.

CHAIRMAN GARRETT. I want to be fair to all the speakers here on both sides.

Mr. KERRICK (McLean). You have spoken of the Ohio cities which are operating under municipal home rule. Have there been occasions when there were fights between the State in Ohio, for instance, or any State or any city under home rule, for the enaction, say, of an ordinance; has there arisen between the State and the city a conflict as to whether or not it was within their power to enact such an ordinance; have those things gotten before the courts?

Mr. HATTON. Oh, yes.

Mr. KERRICK (McLean). I thought so. Does that often happen?

Mr. HATTON. It has happened less frequently as we have gained from our experience, under home rule. If you will take the earlier States where the provisions were experiments, you will find more decisions. In States which have more recently granted home rule such cases have been fewer. Take Ohio, for instance. We have had in Ohio, the provision going into operation nearly seven years ago, I should say six fairly important cases go up under the home rule amendment.

Mr. KERRICK (McLean). On the point of whether they had gone beyond their power?

Mr. HATTON. On the point as to whether they were operating within the grant of home rule power. We have had at least two, and I think the most important of those cases which grew out of the fact that the home rule provision was not clear. It was merely a question of draftsmanship. That might have been obviated, and this proposal I think would obviate it. Let me give you an illustration, because it is typical, and shows that it is not a question of principle, but of bringing these particular provisions into harmony with the rest of the Constitution.

There is a provision in the Constitution of Ohio which says nomination for all State officers shall be by direct primary, or by petition as provided by law. In the home rule provision the cities were granted the power to frame and adopt charters for their own government and exercise thereunder all powers of local self-government. In framing the charter of the City of Cleveland we put in a different system of nomination and election from that provided by State law. In view of the other provision in the Constitution, which should have been taken care of in drafting, a question arose as to whether we had exceeded our power, as to whether we should be bound in matters of election processes by the provision of the State law. The Supreme Court held, that the procedure for the nomination and election of local officers was local in character, and was of the essence of local self-government, and that the provisions of the city charter would as to such matters set aside the State law. That is typical of one of the rather important cases that came up.

Mr. KERRICK (McLean). Isn't it because that sort of thing does arise the tendency is to have the line well and clearly defined between the legitimate exercise of the power; isn't the tendency gradually to make the two forms of government, the State government and the municipal government, act in harmony?

Mr. HATTON. Oh, yes. I might say this: If the Convention in Ohio had stayed by the language originally submitted to them, which contained the language adjudicated in other States, I think we would have escaped at least three of the cases which did go up.

Mr. KERRICK (McLean). Let me ask this question: Through lack of sufficient care in framing a constitutional provision giving Chicago or any other municipality in this State home rule, is there danger of falling into such a condition as that a State would be powerless to interfere in something which would be hurtful to the State at large which might be enacted into law by ordinance?

Mr. HATTON. I can only answer that by saying I know of no instance in which that has arisen. The point upon which that would be most likely to arise would be within that domain ordinarily called police power, the power to protect the health, safety and morals of the people of the State. No court in the United States, under home rule provisions, has ever held that matters falling under the police power were of purely local concern. They have always held that in that realm a law of the State was superior to any action taken by the city. There need be no fear on that point whatever.

Mr. BRENHOLT (Madison). If there are no further questions, it has been suggested here by the gentlemen who are to represent the other side, owing to the lateness of the hour, and the fact there are only about sixty of the delegates present, leaving some forty out of the hall, that they would prefer to postpone their hearing until some later day. They feel it would be more effective by doing that.

Mr. HULL (Cook). Mr. Chairman, I should like to address myself on that. I think this hearing ought to go on. The Convention may not have a further public hearing, and I should be fearful if they postponed their hearing, what would happen would be that again sixty per cent of the Convention would adjourn itself and leave the same situation we have now. I believe it would be well for them to avail themselves of the members of the Convention they have on hand, and I can assure them that the stenographic report of these proceedings will be availed of by a goodly number of the Convention. That is my judgment.

CHAIRMAN GARRETT. I will say that I asked for two days for this hearing on municipal government, and the committee in its deliberations saw fit to give me but one. I believe myself that owing to the number of open days, or days of public hearings in Committee of the Whole having been quite excessive, the matter seems to have reached an end in a way, and I think there is a general understanding among the delegates of the Convention that this is probably the last public hearing that will be held, so I doubt whether I could secure another day for a meeting of this kind. I feel it would be better to go ahead with the regular program, and if necessary come back after dinner this evening and complete it.

Mr. BRENHOLT (Madison). Well, Mr. Chairman, the gentlemen have reconsidered it, as far as they are concerned. They only want to do it in the most effective way possible, and therefore they don't want to ask any privilege that is not absolutely in accord with the Convention, but they thought it would get better results by having a full attendance here. On consultation, however, they say they prefer to have me withdraw the motion, and I will be glad to do that.

CHAIRMAN GARRETT. Very well. We have Mr. B. J. Denman, President of the Illinois State Electric Association, who will now address us.

Mr. DENMAN. Mr. Chairman and gentlemen of the Convention: I wish to address you on behalf of the Illinois Electric Association, of which I am president, on the matter of home rule of public utilities versus the regulation of public utilities through the medium of the State Public Utilities Commission.

In order that you may appreciate some of the difficulties of regulation of public utilities through the medium of the various municipalities, I wish to call your attention to certain physical facts in connection with the supply of electricity throughout the State of Illinois.

During the past few years owing to certain natural economic reasons the State has been covered by a network of transmission lines. These transmission lines are indicated on this map. The extent is indicated by the red lines, and the various colors on the map indicate the area or territory covered by separate distributing and generating companies.

For instance, the area colored yellow south and west of Chicago is a territory supplied by the Public Service Company of Northern Illinois. That company serves 187 communities in that territory.

The area colored blue is served by the Northern Illinois Company, that company serving some 60 companies in that district.

The belt extending across the State colored white and also the territory in the extreme southern portion of the State also colored white is served by the Central Illinois Public Service Company. That company serves 181 communities.

Altogether there are indicated on this map 3,940 miles of transmission lines, and these lines indicate only the main transmission lines and do not in any way include any distribution lines nor any secondary transmission lines.

There are 662 communities served by 13 companies, an average of more than 50 communities for each company.

Only a brief consideration is necessary, I believe, to show the fundamental economic reasons for the supply of electric energy over such wide areas. All industry is tending toward large units, but there is no industry which has profited as much along economic lines through combination as has the industry generating and supplying electric energy. The greatest economy comes through the saving in fuel through the use of very large generating units. In fact, in the modern plants, generating units of a capacity of from 20,000 to 50,000 horsepower are common.

Now, the coal consumption of a unit of that sort is only about one-quarter of the coal consumption required for small plants serving the small communities. A large plant containing units of the size mentioned would operate on from two and a half to three pounds of coal per kilowatt-hour, whereas the small plant serving the small community would use an amount of from eight to twelve pounds per kilowatt-hour.

This conservation of fuel through this means is of tremendous national importance as a fuel conservation measure, and the conservation of railway equipment through these large, economical plants is of tremendous national as well as State importance.

The magnitude of the saving is shown by a study made by the Public Service Company of Northern Illinois, covering the territory indicated by the yellow on the map, in which it was estimated that were all of the energy in that territory supplied by large generating systems, there would be a saving in fuel over a period of thirty years of 60,000,000 tons, amounting to approximately $300,000,000.

The tendency at present is to locate these large generating stations as near as possible to the source of coal supply. It is necessary, of course, that they be located on a stream having an abundant supply of water, but the location of the stations near the regions of coal supply is another means of conserving transportation.

Not only is there a tremendous saving in coal, but there is an equal saving in capital requirements, because plants containing units of the size mentioned can be constructed at a cost of from one-half to one-third the cost of smaller plants.

There is an additional saving aside from the saving in the cost per unit of capacity which comes from the lesser amount of reserve capacity required.

A plant serving a small community, for example, would ordinarily have one unit in operation, but would have to have another unit of equal size as a reserve. If power is supplied over wide areas and from large plants, this reserve capacity is reduced all the way from ten to twenty-five per cent, so there is a tremendous conservation of capital through that means.

There is an additional large saving in capital requirements through what is technically called diversity factor. If a number of communities are tied together by means of transmission lines, the peaks of the various communities do not occur simultaneously; a plant of smaller capacity will meet the aggregate peaks of the community; so the conservation of capital through the tying together of electric distribution systems over wide areas furnishes a tremendous means of conservation of not only fuel but of capital.

Before the building of these transmission lines many communities which now enjoy twenty-four hour service, if they had service at all, had service only during the evening periods, and a great many communities which had no service formerly are now being supplied from these transmission lines.

I have only touched in a very general way, owing to the limited time, upon the fundamental economic reasons for the supply of electric energy over wide areas, in order that you may realize how important it is and that everything should be done to foster its growth.

The present development really covers only the first phase of the development. We are just about entering into the second phase, and that is the provision of so-called farm lines, and if this development is not arrested, it will only be a short time before every highway in the entire State will be covered by secondary lines serving the farmers, and in these days of the tremendous shortage in farm labor conditions, that is of very great importance.

I have outlined the past and the immediate future development of the electric industry in order to point out the impossibility of reasonable and efficient regulation of these utilities through city councils or boards.

In the first place, the electric industry is a highly specialized and technical business, requiring for its proper regulation highly trained technical forces. This can be done much more economically and efficiently by central organization than through a multiplicity of boards. If it is attempted by separate municipalities, the result would not only be inadequate supervision and inefficient regulation, but the regulation of these utilities would become a political rather than an economic question.

There are other factors aside from those mentioned which make regulation by municipalities impracticable. I have mentioned before the tendency to locate the large generating plants with reference to convenient coal and water supply—and a great many, if not the majority, of the plants serving the areas indicated are outside of the limits of the municipalities. It is only necessary to mention this fact to make you realize how difficult, if not impossible, it would be for a city at one point of the State to properly control a public utility receiving its current over a transmission line from a generating plant located perhaps a hundred miles away and located outside the limits of any municipality.

A great many gas and electric franchises have no regulating provisions. The majority of them perhaps have no rules concerning the quality of service that shall be rendered. Many of them have no provisions in regard to rates. The Public Utilities Commission has studied all of these things, and has formulated rules of service, and has an inspection force that sees that these regulations are observed.

Even if these facts were covered by the local ordinances it would be very difficult indeed to see that they were enforced.

The conservation of fuel through the uniform rules laid down by the Public Utilities Commission during the recent coal crisis is one evidence of the value of such a commission in a period of national or State crisis, and not only was there a decided conservation of fuel through these orders which were issued in that emergency, but the Commission saw to it that no community had any advantage over another.

There are many more reasons from the practical standpoint why the regulation of the public utilities by a commission is superior to that of municipalities. I think I have covered sufficient points to show you reasons for not abolishing or restricting the power of the Public Utilities Commission of this State, even should you by any chance come to the conclusion that this is a constitutional and not a legislative matter. I thank you.

Mr. CORCORAN (Cook). Did I understand you to say the peak capacity where you serve 187 towns is spread over a great many hours; wouldn't you think the capacity for all those towns would be about the same as the small units combined?

Mr. DENMAN. There is a tremendous saving through taking advantage of the diversity which occurs through the diversity of the peaks of the various communities. They do not occur at the same time.

Mr. CORCORAN (Cook). In a small unit like that would the peak be so much different?

Mr. DENMAN. Oh, yes, there is a big difference in one community even. That is, a large plant in one community would require much less capacity than if you endeavored to supply each store and each factory in that community by an individual plant.

Mr. CORCORAN (Cook). The peak always starts when they all start up?

Mr. DENMAN. When they use the greater amount of power.

Mr. CORCORAN (Cook). The majority of the towns probably would begin about the same time in the morning and close at the same time in the evening, and at noon?

Mr. DENMAN. I believe you are confused perhaps on the term "peak." I used it to indicate the maximum demand upon a given station. Now, as a matter of fact, in the early days the peak was very much higher in the ordinary generating station than the average load, but through the development which has come through the last few years, the load factor, the ratio of the average load to the peak load, has been increased, so that under present conditions, with the large amount of industrial power which is supplied, the peak load is nowhere near as great in proportion to the average load as it used to be. It is very greatly smoothed out. That is one of the big advantages, in fact, in the large super-power houses.

Mr. SCANLAN (LaSalle). You mentioned several reasons why we should not interfere with the Utilities Commission. One reason, I take it, was that the practical operation has worked to the benefit of the utilities; is that true?

Mr. DENMAN. No, that is not true. I think I gave you my personal opinion as to one of the big advantages. It is an economic and not a political question, and it is the fear of the industry that the matter may be controlled largely from a political angle rather than an economic angle, and there is in addition the very great economic advantage,, as I mentioned, of having the regulation done through a central board, because of the diversity factor which I mentioned, the fact that these questions are not up simultaneously in all of the communities at the same time, but in various communities from time to time, and can be met with a much smaller force than they could be met by the individual communities, if they attempted to meet them in the same complete way that the Public Utilities Commission meets these points.

Mr. SCANLAN (LaSalle). We heard all this threshed out when this Act was first passed. They painted wonderful pictures of all the benefits that would come to the people from the utilities.

Aside from that question, since the mayors are represented here, I want to say I have a record of everything that was said at all the hearings at two sessions of the General Assembly, and I find that the Mayors' Association, by letter and by statement, advocated at that time the passage of the Utility Act. Now, of course, they are on the other side because they found out it has not operated as they expected it would operate. Now, you said among other things that these franchise ordinances did not contain any provisions for regulation.

Mr. DENMAN. I didn't make the statement that broad. Many of them contain no provision, and some of them contain no provision as to rates, and both those statements are correct.

Mr. SCANLAN (LaSalle). You mean franchise ordinances that were in effect at the time the Utility Act was passed?

Mr. DENMAN. Yes, sir.

Mr. SCANLAN (LaSalle). Whether they contain provisions for regulation or not, the Utilities Commission has assumed the power to fix the rates, hasn't it?

Mr. DENMAN. It is true that the Public Utilities Commission now has control of the rates and services.

Mr. SCANLAN (LaSalle). They have assumed——

Mr. DENMAN. I would not say they have "assumed" that power. It has been conferred upon them by the legislature.

Mr. SCANLAN (LaSalle). You say it has been conferred by the legislature?

Mr. DENMAN. Upon the Public Utilities Commission, yes, sir.

Mr. SCANLAN (LaSalle). Well, now, that is a question that has not been finally decided, but they assumed they had the power to do that, and the Quincy case seems to sustain them; but now in the Chicago street car ordinance, that ordinance did contain a provision in reference to what the company was to get, didn't it?

Mr. DENMAN. Yes, sir.

Mr. SCANLAN (LaSalle). And it further said in the event that any year the earnings were not sufficient to pay the five per cent on that debt, on the capitalization, it was to be taken out of the earnings of the succeeding years, didn't it?

Mr. DENMAN. I believe so.

Mr. SCANLAN (LaSalle). That was the provision looking to the carrying out of the provision for the five per cent on the capital investment, wasn't it; are you familiar with what happened to that ordinance before the Utilities Commission?

Mr. DENMAN. Yes.

Mr. SCANLAN (LaSalle). They disregarded that provision, didn't they, the Commission?

Mr. DENMAN. I wouldn't say they disregarded it. It was taken into account; it was discussed.

Mr. SCANLAN (LaSalle). They simply wiped it out by raising the fare to seven cents.

Mr. DENMAN. I don't want to argue the matter. Go ahead. I would not say the matter was disregarded.

Mr. SCANLAN (LaSalle). They practically disregarded it when they required the seven cent fare which they said they gave at that time to give the company what they thought it was entitled to.

Mr. DENMAN. I don't agree with you that the company got what the company thought it was entitled to.

Mr. SCANLAN (LaSalle). Now, you said something about the transmission lines that now cover the state carrying power, as you say, to the farmers. Do you want it understood that every utility company engaged in that business stands for the continuation of this Utilities Commission in power in this State?

Mr. DENMAN. I would not say that everyone does. I said at the beginning of my talk I was speaking on behalf of the Electric Association of the State. Now, that association includes in its membership practically all of the companies, and the consensus of the majority of the companies is that regulation of utilities through the medium of a State Utilities Commission is a more scientific method than regulation through the medium of various municipal organizations.

Mr. SCANLAN (LaSalle). It does not include all the companies?

Mr. DENMAN. Not all of them, possibly not. I am speaking for the Association, and that is the opinion of the very large majority of the companies.

Mr. SCANLAN (LaSalle). What particular utility company are you with?

Mr. DENMAN. I am president of the Tricity Railway & Light company. We operate electric, gas, and street railway and interurbans.

Mr. SCANLAN (LaSalle). Where?

Mr. DENMAN. Tricity Railway & Light Company, Moline, Rock Island and East Moline.

Mr. SCANLAN (LaSalle). That is your territory?

Mr. DENMAN. Yes, sir.

Mr. SCANLAN (LaSalle). You were not down here at any time when this utility question was up before the House or Senate?

Mr. DENMAN. No, I was not here.

Mr. CARLSTROM (Mercer). You represent the Tricity Railway Company?

Mr. DENMAN. Yes, sir.

Mr. CARLSTROM (Mercer). It was your company that obtained a franchise from the City of Rock Island, an extension of the franchise, and in that franchise you pledged that you would maintain a five cent fare to the Watch Tower if they relieved your company from your share of paving 11th street?

Mr. DENMAN. You are mistaken, sir. We had a private right of way on 11th street, and in consideration of the waiving of certain conditions we agreed to pay for the paving in our tracks, and also to deed this property to the city.

Mr. CARLSTROM (Mercer). Isn't it a fact that the City of Rock Island did the paving up on 12th street in order to keep from paving on your street car line?

Mr. DENMAN. That is not a fact, and the city has year after year added to the paving on 11th street and is now considering the paving of two or three blocks additional, and in each of those instances we have yielded our rights in the street. We have a private right of way, and we have turned that over to the city.

Mr. CARLSTROM (Mercer). You say now your company didn't enter into any agreement in the Rock Island franchise to give a five cent fare to the Watch Tower?

Mr. DENMAN. In our contracts we have a five cent fare; that is correct.

Mr. CARLSTROM (Mercer). What are you charging now to the Watch Tower?

Mr. DENMAN. We are charging seven cents.

Mr. CARLSTROM (Mercer). How soon after you got your franchise did you raise it?

Mr. DENMAN. We went to the Public Utilities Commission when it was necessary to increase the pay of the train men fifty per cent.

Mr. CARLSTROM (Mercer). Will you please answer my question? How soon was it after you got your franchise?

Mr. DENMAN. A short time.

Mr. CARLSTROM (Mercer). About six months, wasn't it?

Mr. DENMAN. Perhaps. Let me explain. Had that fare not been increased there would probably be today no street car service in the community, because you will grant it is impossible to operate a utility unless it is possible to make at least operating expenses.

Mr. CARLSTROM (Mercer). Yes, sir.

Mr. DENMAN. That was not possible.

Mr. CARLSTROM (Mercer). When you were before the Utilities Commission to get your raise, what did you value the Watch Tower property at, your amusement park, in a sworn statement?

Mr. DENMAN. I can't recall, but the figures are on file.

Mr. CARLSTROM (Mercer). If I should say it was $180,000, would you say it was not correct?

Mr. DENMAN. No.

Mr. CARLSTROM (Mercer). Did you return a schedule of that property for assessment that same year?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). Do you recall how much your sworn statement estimated it to be worth for the purpose of taxation?

Mr. DENMAN. I do not.

Mr. CARLSTROM (Mercer). If I should say to you it was $47,000, would you say it was correct or wrong?

Mr. DENMAN. I would not.

Mr. CARLSTROM (Mercer). The Illinois State Electrical Association you are talking about is the combination of the individual companies that form this network that you have graphically described, which has fastened itself upon the State of Illinois, isn't it?

Mr. DENMAN. No, it is merely an association of companies who are distributing energy throughout the State. If I may be permitted to say

also in that connection, sir, in spite of certain recent increases in utility rates, I believe on the average today the rates are not more than at the most ten per cent above what they were in 1910 or 1912, and I don't believe you can point out any other commodity or service where the price has not increased from a hundred to three hundred per cent, or more.

Mr. CARLSTROM (Mercer). But during all this time——

Mr. DENMAN. I should not say that was fastening anything upon the people of the State of Illinois.

Mr. CARLSTROM (Mercer). The map or chart you have so graphically pictured there shows its red tentacles reaching in every part of the state?

Mr. DENMAN. I would call them transmission lines.

Mr. CARLSTROM (Mercer). The association you represent is composed of the individuals and companies who compose that octopus, is it not?

Mr. DENMAN. It is engaged in that business, yes, sir. I object to your terms; that is all.

Mr. CARLSTROM (Mercer). I think of no other figure that would describe it quite the same.

Mr. DENMAN. Very well.

Mr. CARLSTROM (Mercer). You say this system you have adopted has accomplished a tremendous saving in the operation and cost of production of our electrical energy?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). That saving has been going on the last four or five years, has it not?

Mr. DENMAN. True.

Mr. CARLSTROM (Mercer). Now then, in view of that saving, there has been this increase in rates, has there not?

Mr. DENMAN. Let me make you clear on that. If it had not been for the saving brought about by the means I have mentioned, I think today the utilities services would be receiving prices commensurate with the prices of all other commodities and services. I know of no other service which has kept its price practically uniform over a period of years.

Mr. CARLSTROM (Mercer). Do you know anything about the company interests in the district up in Kane county?

Mr. DENMAN. No, I do not; I am not acquainted there.

Mr. CARLSTROM (Mercer). If I would say that during the last four of five years they had not had an increase, what would you say as to that?

Mr. DENMAN. That is possible.

Mr. CARLSTROM (Mercer). Is the company up there a member of your association?

Mr. DENMAN. I don't know. Our association includes, I should say, at least 80 per cent, and probably 90 or 95 per cent of the companies of the State of Illinois.

Mr. CARLSTROM (Mercer). You don't mean to have us understand that these territories, the Northern Illinois Utilities Company, for instance, is served by one great central plant?

Mr. DENMAN. No, but by a comparatively few plants.

Mr. CARLSTROM (Mercer). Mercer county and Henry county, embracing a number of towns, have been furnished energy from the Edwards River plant at Matherville, have they not, until that plant broke down?

Mr. DENMAN. That plant is now out of business.

Mr. CARLSTROM (Mercer). And this same company is connecting a transmission line with the interests on the Rock River, is it not?

Mr. DENMAN. The plant operated by the company of which I am president, yes, sir.

Mr. CARLSTROM (Mercer). So that there are many plants, instead of one great system, embraced in these different colored portions of the State?

Mr. DENMAN. Comparatively a small number of units. The number of power houses bears a very small ratio to the number of communities served.

Mr. CARLSTROM (Mercer). When you run a transmission line to a city or village limits, in what respect do you consider yourself different from the farmer who drives into the city with a load of potatoes or apples to sell; when you come to the people of that city and have a commodity to sell them, how do you differentiate between your salable product and the salable product of any other man?

Mr. DENMAN. Looking at it from your standpoint, you want the purchaser to say what he shall pay. The farmer tells you what you shall pay.

Mr. CARLSTROM (Mercer). No, indeed he does not. He comes in and asks what the market is, and generally sells his stuff for what they are paying on the market.

Mr. DENMAN. You are not paying today for potatoes the price you paid four or five years ago.

Mr. CARLSTROM (Mercer). No, sir, and I don't think it is the fault of the farmer, either.

Mr. DENMAN. Perhaps not.

Mr. CARLSTROM (Mercer). Do you feel in your heart, as a citizen of Illinois, that the electrical companies, or the public utilities companies, or any company or corporation, ought to have the protection of the State of Illinois, and that we ought to guarantee them, without regard to how it affects the people of the State, a profit on those investments?

Mr. DENMAN. I don't think they have done that.

Mr. CARLSTROM (Mercer). Isn't that the effect of the Public Utilities Commission today?

Mr. DENMAN. No. I think it is entirely proper, when capital is dedicated to public service, and its earnings regulated that that capital be protected.

Mr. CARLSTROM (Mercer). Don't you think a hotel in the City of Springfield that is intended for the traveling public is a dedication of capital to public use?

Mr. DENMAN. You don't tell them what they shall pay.

Mr. CARLSTROM (Mercer). Don't you think they have the same right as you have; that the Public Utilities Commission ought to investigate what it cost, and compel the people to pay a price that is sufficient to make them a return on their investment, just the same as you?

Mr. DENMAN. Don't you think a man putting his money in a hotel expects a reasonable return on it?

Mr. CARLSTROM (Mercer). Have they received it?

Mr. DENMAN. Possibly not always. I think a great many more than have invested their money in public utilities. Let me tell you, sir, today the street railway business of the country is practically bankrupt. You wouldn't draw from that that industry has been receiving a reasonable return on its investment, would you?

Mr. CARLSTROM (Mercer). Do you recall in the Rock Island city papers within the last week a statement regarding the use of a great number of automobiles decreasing the traffic on the street cars so as to affect the revenue?

Mr. DENMAN. Yes, sir.

Mr. CARLSTROM (Mercer). That conditions over which we have no control have brought about these situations affecting street railways and interurban lines?

Mr. DENMAN. Yes, sir, as far as earnings are concerned.

Mr. CARLSTROM (Mercer). And do you believe some industry or group of individuals should be singled out by the State and taken under the charitable protection of its ordinance contract?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). Against any contingency that might arise?

Mr. DENMAN. They are not protected against any contingency that might arise, and I don't believe you could point out any case where a price has been fixed which is anywhere near what the service is worth.

Mr. CARLSTROM (Mercer). If you valued the Watch Tower property at $180,000 in a sworn statement before the Commission and estimated it worth $47,000 in the schedule, which of those valuations is correct?

Mr. DENMAN. As to taxation, just let me state this briefly: I think a utility company should pay taxes on the same proportion of the value of its property as any other industry in the community, no more nor no less. A public utility should pay on the same basis as any other industry. A public utility should not endeavor to escape its fair share of the public burden.

Mr. CARLSTROM (Mercer). I am only using that figure for the purpose of making a comparison.

Mr. DENMAN. It is in line with valuation in the community.

Mr. CARLSTROM (Mercer). Don't you believe as a citizen of Illinois, apart from your affiliation with these great companies and corporations, any essential commodity for the life or happiness of the people ought to be a thing that can be purchased in the competitive market of the country or the city?

Mr. DENMAN. I firmly believe that competition in public utility service is an economic crime.

Mr. CARLSTROM (Mercer). Do you know that the Mississippi River Power Company delivered energy to the City of St. Louis for approximately a cent a kilowatt, was it not?

Mr. DANMAN. Approximately, yes, sir.

Mr. CARLSTROM (Mercer). And built a ninety mile transmission line, and yet delivered to the City of St. Louis 200,000 horsepower per month for one cent per kilowatt?

Mr. DENMAN. Approximately.

Mr. CARLSTROM (Mercer). You are familiar with the Madison River Power Company of Montana, which was written up in the magazines eight or ten years ago; do you know of that company?

Mr. DENMAN. I know of the Montana Power Company.

Mr. CARLSTROM (Mercer). Known formerly as the Madison River Power Company?

Mr. DENMAN. No, I don't know of that company.

Mr. CARLSTROM (Mercer). Do you know their experience as to the price that they could produce electrical energy and sell it at a profit?

Mr. DENMAN. No.

Mr. CARLSTROM (Mercer). If I should say it was their experience it could be sold at four cents at a very substantial and handsome profit, and they were profiteering to the extent to be written up in the Cosmopolitan, in one of the great magazines of this country a few years ago, would you say there was a necessity for the charging of a fifteen cent rate in Illinois?

Mr. DENMAN. If you take your little pail and go down to a large generating station, I would not be surprised if you could get power generated by steam for that price, but when you make an investment of several hundred thousand dollars and cover a community with network of lines, you have a situation in which the cost of power is a small item and a situation in which the investment charge is the controlling item.

Mr. CARLSTROM (Mercer). Do you mean to say this group, this system of yours, adds to the cost of distribution?

Mr. DENMAN. Not at all; it reduces it. If we were operating today in the condition they were operated under ten years ago, with small generating stations, the coal consumption today would be three or four times greater than it is in a large station, and that would of necessity have to be reflected in the rates.

Mr. CARLSTROM (Mercer). I agree with you; I think that is true.

Mr. DENMAN. Don't misunderstand me, sir, in intimating that the experience of the companies before the Commission has been eminently satisfactory to the companies.

Mr. CARLSTROM (Mercer). My personal experience has been they have gotten along in pretty good shape. I spent a year personally in the Northern Illinois Public Utilities Company.

Mr. DENMAN. I am talking about the principle.

Mr. CARLSTROM (Mercer). They are one of your companies?

Mr. DENMAN. What is that?

Mr. CARLSTROM (Mercer). It is one of the members of the association?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). I spent a year and a half getting a contract for the City of Aledo. It was finally agreed upon that I would dismiss an injunction suit stopping them from running that line into the city, and surrender valuable rights, and provision was made for a rate, and they went before the Commission and did what they had agreed not to do. Do you believe as a citizen of Illinois anybody or any concern ought not to be subjected to the reasonable and fundamental rights of the rules of contract in their dealings with one another? Is there any reason why any concern ought to be exempted from the operation of the fundamental rules of contract when they are dealing with one another?

Mr. DENMAN. I believe that the rate making power of the State rests in the legislature.

Mr. TORRANCE (Livingston). If this map showed the ramifications of the United States mail system with the rural routes and the carriers going to each home in the State, it would look a good deal more like the tentacles of an octopus than it does now, wouldn't it?

Mr. DENMAN. I should think it would.

Mr. CONKLING (Sangamon). Will you tell how many states have regulation of utilities?

Mr. DENMAN. Within the last two years Michigan has adopted a Public Utilities Commission, and also Tennessee. I think that brought the number up to forty-four.

Mr. CONKLING (Sangamon). A great many of those States had regulation long before Illinois?

Mr. DENMAN. Massachusetts has had regulation through Commission for a great many years; and the growth of their regulation through the means of public utility commissions has been increasing in the last few years.

Mr. CONKLING (Sangamon). If I understood you correctly, the increased price of electric service is something like ten per cent?

Mr. DENMAN. I just made a rough statement. That is not accurate, but just as I would think from my knowledge of conditions. I said I did not believe that the rates were more than ten per cent in excess of what they were in 1910 or 1912. The utility companies have always taken pride in reducing the price of their product, and while there have been some increases recently, I think on the average the prices are not to exceed ten per cent higher than the rates in 1910 or 1912.

Mr. CONKLING (Sangamon). What would you say is the increased price of fuel?

Mr. DENMAN. The fuel of the utilities companies? For our company, for example, I can give you a definite figure. In 1914 we bought screenings at the mines for 48 cents a ton. Our contract, which was signed within the last few days, is $2.25 a ton. There is an increase of about four and a half times.

Mr. CONKLING (Sangamon). What has been the difference in the price of labor?

Mr. DENMAN. The price of labor in the last five years has increased approximately 150 per cent.

Mr. CONKLING (Sangamon). What, if any, has been the difference in the cost of material?

Mr. DENMAN. The cost of material, poles, for instance, are today about on the average three times higher than they were before the war. Cross-arms are perhaps five times higher than they were before the war. Copper has not increased to such a large extent. I should say the increase in copper—when I say "copper" I refer to insulated wire, where quite an

element of cost comes from the cotton covering—the increase there has been roughly, I should say, 80 per cent.

Mr. CONKLING (Sangamon). It is not your opinion that the local council should fix the price of the utility?

Mr. DENMAN. It is not.

Mr. CONKLING (Sangamon). Do you know of any bank or banks that permit the customers of the banking house to fix the rate of interest?

Mr. DENMAN. I do not. I don't know of any business that permits the purchaser to fix the rate.

Mr. CONKLING (Sangamon). Has it been your experience in Illinois that the utilities get anything from the Commission of this State that they are not entitled to?

Mr. DENMAN. My personal opinion is that they don't get half as much as they are entitled to.

Mr. WOODWARD (Cook). You are speaking, as I understand it, in behalf of these distributing companies, the transmission companies you have indicated on your map?

Mr. DENMAN. I am speaking in behalf of the Illinois Electric Association, and the companies whose transmission lines are indicated on the map are among the membership of that association.

Mr. WOODWARD (Cook). How long has that association been in existence?

Mr. DENMAN. Oh, I do not exactly know,—about eight years.

Mr. WOODWARD (Cook). May I ask you whether or not there is any real relation between these different large distributing or transmission companies that you have mentioned; what, if any, relative interest is there between these different companies?

Mr. DENMAN. Well, I know nothing about the corporate organizations of the companies with which I am not concerned. The company of which I am president is not connected with any other company in the State in any way.

Mr. WOODWARD (Cook). And your connection comes by reason of your being a member of this association?

Mr. DENMAN. That is all, sir; that is what you might call a trade organization.

Mr. WOODWARD (Cook). This day was set aside for the question of discussing home rule. Are we to understand that you are here opposing the home rule idea or simply opposing any interference with the present Public Utilities Commission?

Mr. DENMAN. This organization has no interest as an organization in any home rule question aside from the home rule of public utilities.

Mr. WOODWARD (Cook). Take it from that standpoint, you want us, if we choose to incorporate into the Constitution some provision pertaining to home rule, but you don't want that provision to include any public utilities corporations?

Mr. DENMAN. We are not making it our business as an electric association; I think every citizen is vitally concerned in that question as a citizen. I am concerned.

Mr. WOODWARD (Cook). Do you mind expressing your personal view on the question of home rule for cities and villages?

Mr. DENMAN. I will give you my personal opinion. I am not a lawyer, understand, I am just a plain business man and engineer. My opinion of our form of government is that we have altogether too many laws. I believe our fundamental laws should be limited as much as possible and that freedom of action so far as it is consistent should be left to the legislature. I am merely talking as a citizen.

Mr. WOODWARD (Cook). If that same proposition were put up to your members, that would be their opinion, too?

Mr. DENMAN. I have no means of knowing what their idea is.

Mr. WOODWARD (Cook). The opinions which you have expressed here, are they the result of any official action taken by your association?

Mr. DENMAN. The opinion which I have expressed as regards the regulation of utilities I have made at the request of the association, yes.

Mr. WOODWARD (Cook). After considerable discussion, after several meetings preparatory to your coming here to present your side of the case?

Mr. DENMAN. Yes, very naturally.

Mr. SIX (Pike). Do you think the members of your association would have any objection to this Constitutional Convention writing a provision into the Constitution providing that such contracts as you see fit to make with the municipality may be in force even though you lose money?

Mr. DENMAN. My personal opinion is, as I said, that no rate provision should be put into the Constitution of the State; I think that is purely a legislative matter and should rest with the legislature.

Mr. SIX (Pike). The companies which constitute your organization own transmission lines over the State; do you think such companies would have any objection to a provision in the Constitution authorizing the municipalities to engage in the business of serving the people by such utilities, and then force such companies to give to the municipalities electrical energy wholesale, and take up the cost of distribution themselves; would your members have objection to that?

Mr. DENMAN. I think our membership would have objection to that being incorporated into the Constitution. Many of our members are serving municipal plants wholesale now. I think we feel that has no business in the fundamental law of the state.

Mr. SIX (Pike). It is not possible at this time, however, to force any such transmission lines to give wholesale rates on energy to municipalities now?

Mr. DENMAN. It is my impression that that power lies within the present powers of the Public Utilities Commission. I am expressing a personal opinion.

Mr. CORCORAN (Cook). One of the objections made by the mayor of Joliet was when they went to your company, or any public utility went before the Public Utilities Commission they came in with four or five volumes of valuations and laid them down. They went to great expense; that would cost the City of Joliet a great amount of money to check those valuations. I do not suppose your companies would have any objection if we wrote into this Constitution that in making your rates we would use the same valuations that are used for making your taxes, would they?

Mr. DENMAN. We certainly would have objection to that, sir.

Mr. CORCORAN (Cook). Why?

Mr. DENMAN. In the first place, to repeat, I think the matter of rate regulation has absolutely no place in the fundamental law of the State; in the second place, I think it makes no difference whatever the value on which a utility is appraised for taxing purposes as long as it is on the same basis as the rest of the property in the community. If you are appraised on a fifty per cent basis, surely we should object to taking it for rates.

Mr. CORCORAN (Cook). We are trying to get a fair value for everybody. If we should take the real valuation you would have no objection then, would you?

Mr. DENMAN. There would be objection, and that is one thing we wanted to make clear, that in our opinion there should be nothing in the Constitution regarding rates of public utilities companies. We believe firmly that is a legislative matter entirely.

Mr. CARLSTROM (Mercer). Your association has discussed the matter and objected to the giving of any municipality the right to own or operate their own public utilities. Why?

Mr. DENMAN. I have avoided entirely the question of socialization of electric industry. If I discuss that I shall have to discuss it from my personal viewpoint and not under any instructions from the association. If you want my opinion, I can give it, but I cannot give the opinion of the association on that point.

Mr. CARLSTROM (Mercer). You speak of that as socialization?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). For a community to supply its own wants in any particular matter?

Mr. DENMAN. Yes.

Mr. CARLSTROM (Mercer). Do you call the water systems of the cities of Illinois a feature of socialism?

Mr. DENMAN. I say socialization, but of course it means almost the same thing. I see no reason why there should be so much emphasis placed upon the price of service; it amounts to a very negligible portion of the expense of the average family. I am talking as an individual again, but that is the entering wedge to socialism, and if that is once accomplished—not that it will be—then the next thing, if this item of small importance is socialized, that enters so little in the cost of living, why not food and clothing, that enters greatly into the cost of living?

Mr. CARLSTROM (Mercer). Is it possible to devise some scheme to get the necessities of life from the purchaser to the consumer without so much cost?

Mr. DENMAN. I think we are solving the distribution of electricity very efficiently.

Mr. DAWES (Cook). You have shown us a map which shows your lines extending many miles, and they pass through many cities and towns; if any one town or city has complete control over that portion of the line they might prevent you from transmitting the power from the city beyond. For that reason you objected to the complete home rule in each and all of those cities over that transmission line?

Mr. DENMAN. That is one reason.

Mr. DAWES (Cook). That is the connection these transmission lines have with the question of home rule. You are aware of the fact, I suppose, that the original authority for many of these public utilities to enter into the community and sell their services came through legislative enactments, and in their charter fixed, as in the case of gas the rate at which it should be sold, at $2.50 per thousand; a change in economic conditions made those rates out of the question, and that was the occasion of the State asserting its right to control the rates. The first authority is to control the rates, but the limitation upon that authority is that those rates should be controlled within reason.

Mr. DENMAN. Yes.

Mr. DAWES (Cook). Therefore the plain right of these companies to a fair rate of return is nothing but the claim that the State should not exercise its power to fix rates that would give no return. The situation is quite different from that of a hotel?

Mr. DENMAN. Quite, yes.

CHAIRMAN GARRETT. I next wish to introduce to the Committee of the Whole Mr. B. P. Alschuler, attorney of the Illinois Gas Association, of Aurora.

Mr. ALSCHULER. I have been introduced at the attorney of the Illinois Gas Association. I submit to you that I do not display any horns nor do I exhibit any forked tail. I am an every day country lawyer and in the course of my practice I am called upon at times to represent some utility companies. I yield to no man in my consideration of the rights of the people, but when I say consideration of the rights of the people, I mean not only the rights of the consumers of public utility services and products, I mean also the rights of the men who work for the public utilities and for the rest of the men whose money is invested in the public utility. I try to view it from all sides.

Public utility regulation by State Commission had its inception with Governor Hughes of New York and Senator LaFollette of Wisconsin, in 1907. Prior to that time there had been considerable of unrest and agitation coupled with dissatisfaction, with respect to private ownership and operation. This was true of Illinois cities as well as the cities throughout the country. In Chicago, Mr. Dunne had been elected mayor on a platform of immediate municipal ownership and operation of street railways. Closely following the examples of Wisconsin and New York, Woodrow Wilson of New Jersey and Hiram Johnson of California, advocated and secured the adoption of State regulatory laws in their respective States.

Public utility regulation is as great a question as any other economic question which you gentlemen have to consider. With the growth of communities the public utilities which serve them grow or should grow. The service and commodities furnished by public utilities are necessities in the daily life of the people. The prosperity and welfare of communities and of public utilities are so inter-dependent each upon the other that misfortune to either must be reflected in injury to the welfare of the other. As has been well said public utilities are public necessities and are, so to speak, the second nature of cities, they supplement the sunshine and air.

Public utilities, as we understand the term under the present law of this State, supply gas, water, electricity, heat and transportation, and also provide means of communication by telephone and telegraph, carry our commodities as freight, express or baggage, store our valuables in warehouses, and our grains and food in elevators. It will be very evident that present day life requires, yes, cannot exist, without the service and product of public utility corporations.

When we speak of public utility corporations we must not forget that they are no different in make up than any other kind of a corporation, being but associations in form provided by law, of individuals who invest their money for the carrying out of the particular enterprise.

For example, it has been estimated that there are approximately 250,000 owners of public utility securities in the State of Illinois. There are thousands of persons employed directly by utility companies in Illinois, to say nothing of the thousands of people employed in industries dependent upon public utilities. Wages paid to employes in Illinois have been estimated to be about a quarter of a billion dollars per year. Taxes paid by public utilities in Illinois aggregate more than ten millions of dollars per year.

Public utility securities are owned by individuals, men, women and children, trusts, estates, banks, insurance companies, in fact people in every walk of life hold these securities. The man who carries a life insurance policy in an old line company has an interest in public utility securities because practically every old line company owns them. I have been told that about one-third of the investments of the New York Life Insurance Company are in such securities. The depositor in the bank has a like interest and for the same reason. In recently looking over the list of security holders of a large traction system which is in receivership, I was amazed to note among the bondholders, the large number of women, of trust estates, of hospitals, colleges and churches. Public utility securities are legal investments for trusts in many States. So I say to you gentlemen that the public is interested in public utilities in more ways than appear from mere superficial thought given to the subject. It is as much the duty of a good citizen to protect the investment of the investor and the earnings and wages of the working man as it is to view public utility problems from the standpoint of the consumer of the product or service with respect to the rates he pays and the service that he receives, and it is my purpose to discuss the questions as much as I can, from all viewpoints.

I do not intend to devote much, if any, of my time to the discussion of questions of municipal ownership. Let us not confound municipal ownership with municipal regulation. We have on our statute books at the present time ample provision for municipal ownership, and I am sure that I express the thoughts of many utility operators of the present day when I state that it is their regret that municipal ownership has not been more freely indulged in by the municipalities of the State, because thereby the serious losses which utility, sometimes nowadays called "futility," companies have almost universally sustained in the past few years, would have been avoided. But municipal regulation is an entirely different question and I will direct my remarks to a discussion of municipal regulation as opposed to State regulation.

I take exception to the designation of the advocate of municipal regulation as a "Home Ruler." You have before you now for consideration many questions involving home rule, many of which I favor and in that particular I am as much a "Home Ruler" as any one else. Municipal regulation

is but one of the subjects which some Home Rulers, not all by any means, want to have included in the Constitution.

The time honored and smooth sounding phrase, "Home Rule," appeals to many, and because municipal regulators have borrowed the term from true Home Rulers, many who give but superficial thought to the subject believe themselves to be municipal regulators, unmindful as they are of the effects which may result from the adoption in our Constitution of a municipal regulation plan. One of the most serious disadvantages which utilities have had to face is the lack of information concerning their affairs so generally prevalent. I have discussed these questions before public bodies in the past, among others the Public Utilities Committees of the last Senate and House, and it has been my unvarying experience that the advocates of municipal regulation who have appeared have always been men who, under such laws, would be the regulators. This was exemplified this morning, for the Illinois Municipal League, composed of city officials, furnished the speakers who advocated this legislation.

Advocates of local regulation of utilities argue that these companies use their streets. True. But let us not forget also that public utility companies are creatures of the State. Their ownership is not confined to the local municipality, but may be and most often is State-wide. They pay taxes to the State as well as to the local government. The streets they use are the city's streets because State law has made them so. Principles of regulation are State-wide in their application.

I do not want to be understood as being in accord with all the positive and negative requirements of public utility regulation as we have it in this State, and I have no doubt that some public utility corporations would, for reasons peculiar to themselves, prefer municipal regulation. Public utilities are regulated by the State because their services and products are, and for successful operation and proper rendition of service must be, natural monopolies. Because of this, States the country over have provided for regulation of rates, standards and quality of service, extensions and additions to plants, and of finances. In the last legislature municipal regulators introduced and fought for the passage of a bill which provided for local regulation of part of utility activities and State regulation of part. A most anomalous situation. For example, it was to be left to the State to pass upon financial matters, to authorize capitalization and fix the selling price of securities and to regulate and control utilities outside of municipalities, but it was left to the cities to fix the rate to be charged, whether or not the companies could earn the moneys sufficient to pay the interest and indebtedness authorized by the State. Cities were to order extension of plants and facilities which would have to be paid for by moneys raised through State authoritization. Cities were to be permitted to fix upon standards of service, changes in which as ordered might and would require expenditures of moneys, which could not be obtained without State authorization. These are only concrete examples of some of the practical difficulties which would result from the adoption of so-called Home Rule legislation or constitutional provision with reference to public utilities, for the matter of State regulation or security issues is advocated and has been proposed by municipal regulators.

The principal burden of complaint of many of the speakers who have advocated municipal regulation seems to be that they feel that injustice is being done to municipalities. For example, it has been stated that the Public Utilities Commission is an impartial body, but that it should represent the cities. In other words, utilities should not be dealt with fairly and impartially. Our present law guarantees fair dealing by giving to any party to a proceeding before the commission the right to appeal to the courts. But in the last proposed legislation these regulators were going to deny even that right. If any litigant before the Public Utilities Commission has been unjustly dealt with, then I say to you that it is not the fault of the law nor to the shortcomings of our commissioners, but is due entirely to the frailty of human judgment which may and sometimes does err, even in our trial courts and in the highest courts of the State. We

might as well contend that because errors of judgment will creep into the decisions of our courts that therefore the courts should be abolished and the people be a law unto themselves, or that all courts should be purely local because citizens of municipalities may be litigants.

Principles of regulation and control are as State wide in their application as any other principles of law or equity. No cases of regulation are entirely local in their application, for the rights of taxpayers and security holders enter into every case. Rights of utilities, their customers, their property and their owners are the same in principle in Cairo and in Chicago.

I represent among other clients, several gas companies, at least two of which make their gas at central stations and supply therefrom different municipalities. Under local regulation each municipality would provide for local regulation either by council, board of trustees, commission or some other regulatory body or officials. To provide for regulation the State has built up a large and expensive machinery composed of expert accountants, lawyers, investigators, electrical engineers, gas engineers, and experts generally in the different utility fields. For a municipality to properly and fairly pass upon utility problems would at least require the employment of competent accountants and engineers in the different fields of endeavor, investigators, lawyers and the miscellaneous employes necessary to properly do the work, for if this is not done, the establishment of rates, for example, would be by the exercise of arbitrary judgment. All utility companies want is the exercise of fair and impartial judgment after fair and impartial investigation of the questions involved.

I have heard municipal regulation advocates say that cities cannot afford to employ engineers, accountants and attorneys to appear before the State Commission in cases involving rates and valuations. Certainly if they cannot afford to do it in the isolated cases that they have before the State Commission, they could not afford the manifold expense that would necessarily be incurred if they were to establish proper, fair, able and honest investigating and regulatory bodies in their own communities. For the protection of such cities, however, I have always found that the State's resources in this respect have always been made use of by cities.

Among those regulators who have appeared before this Convention, I recognize men whom I know have appeared before the Public Utilities Commission, and because the Commision had the honesty and the nerve to do at least partial justice by the public utility companies in the particular cases in which these men were interested, they say that State regulation is a failure. Little do they care for the investment in the particular public utility; little do they realize that service which they complain of can only be rendered if the particular public utility furnishing it is able to operate successfully.

Others among municipal regulators do not claim that injustice is being done to cities by State regulation; they say they want justice dealt to the companies, but they want to do the dealing. In other words, if a question arises between a city and a company they want to be in the position of one of the litigants in a law suit who might decide the rights of the other litigant. To me this appears rather un-American, certainly unfair.

By State regulation utility companies are removed from local influences and from local politics. They cease to become political footballs and cease to be means of beclouding real issues; political issues become more and more the fitness of candidates rather than what shall or shall not be done *to* the utility companies. A bit less of political leavening in our affairs, National, State and local, would go a long way toward bringing order to our industrial and economic chaos.

What I have said with respect to political municipal regulators is not true of course in all cases, though I believe I am safe in saying it is unfortunately true in most of our municipalities. I know of the mayor of one city who is prominent among municipal regulators, to whom I would not hesitate to trust utility questions. But he is a rare bird in the political aviary.

Under this proposed constitutional legislation, in cities like Springfield, for example, where we find a municipally owned electric light plant competing with a privately owned plant, the privately owned plant constructed and operated under public grant and authority, in which, because of such grant and authority, investors have placed their money, we would find rates and service controlled arbitrarily by those men who operate the competing plant and not by disinterested and impartial men. Springfield may be an exception in that political or ulterior motives might not actuate the minds of the commissioners in so regulating the privately owned utility. But I cannot help but feel that however honest these commissioners may be they cannot act as impartially or fairly as commissioners appointed from the State at large entirely without interest in the local situation.

The principal agitation against State regulation, incited principally by politico-municipal regulators, has been due to the fact that during these war times costs of commodities have increased in such great degree, as a result of which you and I and everybody else have been compelled to pay greatly increased prices for the commodities which we consume. The situation has likewise struck the utility companies. They have but one source of revenue —from their consumers—and they cannot expand beyond the confines of the territory that they serve. To give service they must have adequate income. For this income to be adequate it has been necessary to raise rates, and to raise rates has required the consent of our Public Utilities Commission. When our Commission was first established on January 1st, 1914, and for some time thereafter, people generally thought that the Commission was an ideal arrangement. There was no complaint urged against the Commission in the legislature of 1915 because up to that time any changes of rates resulted in reduction, nor was there any other than minor change proposed in the legislature of 1917 for the same reason, but when the utility companies began to feel the pressure of increased prices for coal, labor and materials, and as a result had to have increased rates, then the municipal regulator, finding the waters fine, jumped in and he has been swimming about in this element ever since to reach the goal of political preferment.

I call your attention to this fact. Almost without exception the last commodity prices to raise have been those of public utility companies. In my home town today the only necessities of life for which we are not paying more than we did in 1914 are gas and electricity, but our company, feeling the pressure, has had to apply for increases in gas rates. I say without fear of contradiction that if rates had not been raised, practically every utility company in the State of Illinois would today be in the hands of receivers and service would have been impaired if not abandoned, and we would not be here today discussing these proposals. Rates as a rule have not been raised to points where utility companies are making money. In most cases so-called emergency orders have been entered so that the balances on the books of the utility companies should not remain in the red. Most rate increases have not resulted in any profit to the companies. Rate increases as authorized by our Commission have not kept pace with advances in other commodity prices, certainly not with costs to the utilities of coal and labor.

In these days of profiteering among those who deal in the necessities of life, no person has ever said that utility companies, regulated as they are by our Commission, are in the class of profiteers. Almost without exception none have even made returns on investment equal to current interest rates.

State regulation of utilities brings about uniformity in utility control and operation. Under State regulation we have prescribed by our Commission scientific, systematic and uniform systems of accounting followed by every public utility in the State, but not, unfortunately, in municipal plants. Standards and rules are the same throughout the State, except in municipal plants. Rates in the several communities vary only as conditions peculiar to the several communities require variation. Classifications with respect to grain are uniform. Regulations with respect to extensions and additions to plants are uniform, but not so with municipal plants. There is a stability given to public utility enterprises upon which an appeal can

be made to investors. With local municipal regulation we would have no such uniformity or stability.

Among the utility companies which I represent as an attorney is one which supplies gas to sixty-four different communities and along highways inter-connecting the same. The gas is all made at the central plant as a result of which the overhead expense in each municipality is materially reduced, to the consequent benefit of the public; there are other companies in the State which produce and distribute gas in similar manner and there are many electric companies each supplying many municipalities and farmers in the country from one central station. Progress in the arts has made possible this manner of distribution by which the public has been the beneficiary. Our State is the pioneer in this method of artificial gas distribution. Many states do not have it today. But it is growing into more constant and frequent use and the public is the principal beneficiary. Regulation of such companies involves far more than purely local consideration. Further progress it would seem will require the generation of electricity at the mines, thereby saving freight charges on coal and coal consumption in transportation of coal, and this will bring about further centralization of plants. Because of this centralization municipal regulation is impractical. By the same token it is impractical in its application to telephone companies and to street and interurban railways; to the former because the very existence of telephone companies depends upon inter-communication between towns, and to the latter because in practically every instance today local street railways are indissolubly tied up with interurban lines. But that is not all. Practically every utility company that is now entirely local in its character runs lines either for gas, electricity, telephones or street cars into the country outside the limits of the municipality. No sane person would have it otherwise. There is constant demand for extension of facilities made upon utility companies, extensions to other communities and extensions outside of municipal corporate limits, but local municipal regulation contemplates regulation only within the municipal limits. With what result? Every utility company in the State would be subject to the control of a State Commission which we must have to control activities outside of municipalities and of as many municipal regullatory bodies as there are municipalities served by the particular utility company.

The particular gas company which I have just mentioned serves sixty-four communities, large and small, in the counties of McHenry, Kane, Cook, DuPage, DeKalb, Kendall and Will. Gas is pumped over 80 miles from a central plant. If it were not for the method adopted by this company most of the communities we serve never could have gas service because the expense of the construction of a plant and distribution system in a small community is prohibitive. Gas companies cannot exist in smaller communities because of the large investment required and the relatively high cost of manufacture in small quantity. This company's gas all comes from the same ovens and wherever it is served it has the same heat unit value and candle power. Let us assume for the sake of argument that the City Council of Aurora, my home city, saw fit to pass an ordinance fixing on 550 B. T. U.'s as the heat unit standard and further by ordinance established a rate to be charged based upon that standard which we will further assume, to be a reasonable rate. Is it unreasonable to assume that the Village of Montgomery, two miles distant from us with a population of less than four hundred people, or the Village of North Aurora, four miles distant from us with a population of less than five hundred people, or the City of Geneva nine miles distant from us with a population of two thousand people, any one of them, would pass an ordianace fixing upon 650 B. T. U.'s as the heat unit standard and authorizing us to charge a higher price for this more expensive gas? But this company has but one plant and to meet the requirements of the small villages it must make 650 B. T. U. gas, which it must serve in the City of Aurora and for which it can only receive a fair rate based upon the cost of the cheaper 550 B. T. U. Gas. There can be but one answer with such municipal regulation and it is such municipal

regulation which municipal regulators advocate. We would be compelled to go out of business in the smaller communities, our investments would be lost and the people of the smaller communities would be without service. It would result in an even further serious situation. We could not afford to maintain our large central plant and pump the gas to the few large cities that we serve. We would be compelled to cease making metallurgical coke, tar and ammonium- sulphate but would be relegated to the old fashioned and more expensive system of making water gas in our plants in the larger cities, now maintained for stand-by purposes only. Companies such as I have mentioned and that means practically every public utility in this State, can operate successfully only with uniform control or without any control whatsoever, and nobody advocates the latter course.

Farmers and residents outside municipalities could not have gas service which they now have, under such condition, and this holds true to greater or less degree with every other service rendered by utilities.

The street car company in my town runs lines outside the city limits. That could only result in two regulatory bodies controlling its operations. The gas company I mentioned would have sixty-five regulatory bodies to contend with; that same company serves six different municipalities from one electric plant and it would have seven regulatory bodies to contend with as to this service because it serves people along the highways, in the country, as well as in the cities and it must from time to time issue securities. What I have said as to this Company's method of operation is true of many others.

There is a constant demand for more and better service from utility companies. Those demands to be met, require in most instances the expenditures of money. My experience has been that the public utility operators desire to meet these demands. Good business judgment dictates that service is of prime importance, but to give service requires money. Sufficient money must be earned to properly maintain and repair plants and unless returns sufficient are made so that the utility companies can show a reasonable profit new moneys will not be invested. New moneys are requisite to provide for extensions, additions, improvements and betterments. If the public is to receive good service which it is entitled to receive, if cities would grow and prosper, there must be the dawn of a new era for public utility companies. A step in the right direction was taken when the State took over the control. The next step must be such that capital can be interested in public utility development. Another and no less important step must be the cessation of the favorite sport of Socialists, politicians and municipal office holders, the baiting of public utilities.

We have heard and we have read in some newspapers considerable of the vaporings of attorneys employed by and growing rich at the public's expense, to the effect that so-called contract ordinances could not and should not be set aside. Such ordinances are no different from municipal grants by any other name. Ordinances fixing rates and standards are police ordinances and in their passage municipalities are but agencies of the State. The State should not and cannot divest itself of its police power. Under our present law the State has taken back unto itself all police power with respect to utility regulation, and fortunate was the day for the people of the State of Illinois when this was done, for had it not been so the municipal regulators would surely have succeeded in bankrupting the utilities of the State, to the consequent detriment and abandonment in many instances of service.

Suppose an ordinance were passed today fixing rates without State regulation. We all hope that in years to come the prices that we pay for commodities will be reduced. Would any man say that because a high rate were fixed today that a company would be justified in charging it six or ten years hence when and because other commodity prices will have declined.

In the city where I live the water plant is municipally owned and operated. Rates have been raised and nobody has been heard to publicly complain. The same is true in many other communities and if rates have not been raised in municipally owned plants, then I say the municipality is losing money and I say this advisedly. Of course the losses are made up by

taxpayers as they are in the municipally owned Springfield Electric Light plant. Taxes in all municipalities today are higher than in the past. My home city taxes have raised 90% in five years. There is more or less grumbling about it but the people pay the tax. Some people call water rates a water tax. Gas rates and electric rates are no different in principle. But because such companies are ordinarily privately owned it is always possible to find someone ready to critize and to make capital at the expense of the other fellow. It is far easier to critize and find fault than it is to construct.

Due to the fact that my work is so closely identified with the interests of utility companies I readily appreciate that there are those who would say that my selfish interests are better served by State regulation. This is not true because I will assuredly keep busier with 65 regulatory bodies than with one. The municipal regulators would guard against my over working myself by abolishing appeals to courts. In the bill offered by them in the last session of the legislature they specifically so provided.

Many proposals have been offered in this Convention having reference to the questions under discussion. As briefly as possible I desire to particularly call your attention to some of them, first making this general observation—when we consider that we are here discussing fundamental law that will be the law of the State for many future years with respect to varied industries collectively termed utilities; when we bring to this consideration the realization that many of these industries are of recent invention and all of recent development, that their activities are practically in their inception then I say their regulation and control are entirely matters for legislation to be passed from time to time in step with future changes in methods and operations and the future must not be handicapped with what would become obsolete and impractical basic law.

Don't overlook this patent fact. Everything that municipal regulators are asking you to include in the Constitution can now be done under our present Constitution by legislation. If by reason of future change or development it would become better for the people of the State to have included in our laws all or any of municipal regulatory provisions, then leave it to the legilature of that day to pass upon the question. Certainly that day is not here now and even if it were conditions may so change that it may become advisable to adopt some other system of regulation in the future. The proposals provide one system for all future time. It would seem that your finished work when submitted to the people should be such that there will be no present reasonable anticipation that it will require amendment in the future. It should be in such form that legislatures may be free to act thereunder to meet and provide for changes as necessity or occasion may require.

The telephone was invented in 1876 and since 1896, 35,000,000 miles of wire have connected up 15,000,000 homes and business houses in this country. The first successful electric railway began operations in 1888. The carbon incandescent lamp was invented in 1879. Gas dates back prior to the Christian era, yet the first company to manufacture and distribute from a central station in this country was the one I have told you about in Northeastern Illinois and it built its plant only ten years ago.

Proposal No. 21 gives to cities in excess of one million inhabitants all power of local self government and authority to enact, adopt and enforce within their limits local police ordinances and regulations. I agree with the spirit but not the substance of this proposal in that it is too inclusive and unless some other constitutional provision reserves unto the State its police powers, except in the particular instances wherein the legislature may delegate same to the municipalities, then this proposal should be modified accordingly.

Proposal No. 30 provides that the General Assembly shall pass laws to correct abuses and prevent unjust discrimination and extortion in rates charged by public utility companies. With the theory of this proposal I have no quarrel but it is purely a matter for legislation. The principle involved is just. We have such laws now under our present Constitution without such provision.

Proposal No. 50 provides that no board or commission created by the General Assembly shall have other than purely executive and administrative powers, and all powers in the exercise of which it is necessary to hear evidence shall be deemed judicial. If this were to become a part of the Constitution I am quite fearful that government in this State would be most seriously hampered. With respect to utility regulation the only regulatory bodies that could exist would be legislature and City Councils which would be required to act arbitrarily and which could not hear any evidence or make investigations else they would be acting unconstitutionally. Such a provision would absolutely wreck public utility enterprise in Illinois.

Proposal No. 55 would confer on the City of Chicago exclusive power to regulate rates and service of public utilities. It would be needless for me to discuss this proposal at length because I have stated my views with respect to such provision heretofore.

Proposal No. 78 in its application would make an ordinance a contract not subject to change as now provided by law, and subject to forfeiture for non-performance. I know many utility companies today that would be glad to forfeit and quit business if they had it within their power and to that extent I believe this proposal would be acceptable to them. But how impractical is this proposal, because if rates are fixed too low by ordinance the people must suffer through inadequate service and the company must suffer because of loss of money, if too high the injustice is obvious. Why permit the utility company if ordinance rates are too high to grow fat at public expense?

Proposal No. 82 while not directed to public utility control and regulation, to me appears to be about as sound a proposal dealing with public utility questions, as has been presented to this Convention. It is directed to municipal ownership and operation and while it does not enlarge the present powers of cities in that direction, it assures unto them the right to municipally own and operate utility properties. It contains a great deal of good sense which publicly owned utilities should be required to adopt in the operation of their plants, for it states that rates should be based on an amount sufficient to pay interest and principal on capital indebtedness, to provide for depreciation, renewals and repairs, for operating costs and for adequate reserve fund against contingencies, and not one in fifty, yes I venture to say not one in one hundred of municipally owned plants today provide for enough to even take care of interest and operating costs. The taxpayers pay the bills.

Proposal No. 94 is another proposal having to do with so-called contract ordinance from the adoption of which the public itself would in the last analysis be the most seriously affected.

Proposal No. 96 is a bit of legislation providing for municipal control and regulation. This proposal, aside from being legislation, should not receive favorable consideration.

Proposal No. 111 is a proposal for home rule for Chicago and the consolidation of governmental bodies, and provides that Chicago may be authorized to adopt and enforce police and other regulations. What I have said with respect to No. 21 applies with equal force with respect to this proposal.

Proposal No. 153 provides for classification of cities and villages. It provides for municipal ownership and operation and gives authority to adopt and enforce local police and other regulations. In this respect, excepting as to its application to all cities, it is the same as No. 21 and 111.

Proposal No. 159 in many respects similar to No. 82 and introduced by the same delegate is entitled "A proposal in relation to Home Rule and consolidation for the City of Chicago," giving unto the legislature the power to provide so-called Home Rule for Chicago. It has the same good provisions as has proposal No. 82 with respect to municipal operation of public utility plants and gives to the General Assembly the power to give to Chicago a complete system of local municipal government. This would include the power to grant the right to locally regulate utilities, a power which our present Assembly has under our present Constitution. It does not impose local regulation by constitutional enactment. It clearly recognizes the dis-

tinction between the legislation which certain municipal regulators would make a part of our Constitution and a constitutional provision such as this proposal really is. In other words, it gives to the legislature the right to pass upon a legislative question. I have no quarrel whatsoever with the principle.

Proposal No. 192 is another municipal ownership proposal which is not surrounded with the safe-guards to the people as provided in Nos. 82 and 159. The proposal is general in its application and as I view it should include, if made a part of the Constitution, many of the safe-guards provided in the last mentioned proposal.

Proposals 219 and 346 are very good proposals in many particulars and are entitled "Proposals to amend the Constitution concerning Home Rule for municipalities," but contain the objectionable feature of giving to cities and villages exclusive power to adopt and enforce local police regulation, and likewise specifically provide for the regulation of the exercise of licenses of local public utilities, An attempt is made to provide for the safeguarding of utilities operating in more than one municipality by making regulations subject to restrictions imposed by law for the protection of other communities. In other words, this proposal assumes that local regulation in one community may be of such nature that other communities served by the same utility will require protection against such regulation. Nothing of course is included for the protection of the utility which may serve more than one community. In this particular I consider this proposal most dangerous because it could only serve to bring about chaotic conditions in public utility affairs with consequent damage to the public. It would be necessary under this proposal, to have State regulation outside of municipalities and to insure uniformity of action and to protect each municipality against all others served by the same company we would have municipal regulation reviewed by a State body and regulation outside of the municipality by the State body. Don't forget that all this will only pile up operating expenses for which consumers must pay. Viewed in the light of the heretofore existing and I might say destructive conflict in authority between the Inter-state Commerce Commission and State Commissions with respect to the railroads, which was one of the elements which operated to the detriment of railroads and the public, the same being a somewhat analogous illustration of local control combined with centralized control, it will be apparent what results must follow from such law as is here proposed. I might say that in recognition of the failure of such regulation the present Esch-Cummins bill recently adopted provides for a centralized control of railroads in the Inter-state Commerce Commission in all cases wherein the results of Intra-state operations will affect Inter-state operations. Under this proposal we would have local regulation for purely local utilities. We would have local regulation affecting other communities of utilities operating within a municipality and outside thereof, as a result of which, because of the present day nature of gas, electric, telephone, telegraph and street railway utility business, regulation would be in the hands of more than one regulatory body in practically every case.

Proposal No. 245 is a proposal which practically restates the law as it is today in that it leaves it to the legislature to provide for laws for regulation of rates, practices, etc. In my opinion it is a good proposal.

I would say with respect to No. 263, the proposal which defines relationship between State and municipal powers.

Proposal No. 268 is a straight out grant to cities of authority to regulate and control utilities, containing most of the vicious features of the bill submitted to the last legislature by municipal regulators.

Proposal No. 285 is a proposal for public ownership and does not materially change our present law.

Proposal No. 298 in effect provides that no utility may be constructed or operated without a referendum by the electors of the municipality affected. This is now the law in those cities in the State under Commission form of government. The proposal also provides that the utility company shall be required to pay a portion of its gross receipts to the municipality. The time is too short to discuss the economic error of this proposal in this

particular. Suffice it to say the utility does not make the payment. It is the people who use the commodity and is only one way of taxing the consumer for the benefit of the general taxpayer, detrimental to the utility however, because the tax must be absorbed in rates thereby of necessity causing increased rates.

From what I know of municipal regulators, judging from my experience with them in an official capacity, I cannot help but feel that if questions involving public utilities were left to their tender mercies, that rates would immediately be fixed at a minimum regardless of whether or not deficits would be created, or whether or not bond interest would be paid or whether or not dividends might be paid, and regardless of the poor service or lack of service from which the public must suffer as a natural consequence. By far the large percentage of utility companies are not making money today. Rates have not been fixed as a general proposition on the basis of return to the investor, but solely to permit the utility to exist. I want to quote Frederick H. Sisson, Vice President of the Guaranty Trust Company of New York.

"A rate that is too low may deprive the members of the corporation of property that cannot be returned and if too high, the public is unjustly deprived of property. Rates should not be speculative or put in operation for the purpose of determining whether too low or too high. Before that question can be answered a loss of property might result. The business of rate-making should not be an effort to impose on either the public or the corporation, and while it may be true that some corporations in the past have acted unfairly to the public, that would not justify a confiscatory valuation by the commission or a lowering of rates causing a confiscation. Rate-making contemplates fair dealing between the company and the public.

The public is entitled to be served at reasonable rates on the value of the property used in the public service. The company is entitled to a rate that will allow it a fair return. To induce investment and the continuance of capital there must be some gain commensurable with that of any other business. The mere assurance that the investment will not be confiscated will not suffice."

The program of the municipal regulator contemplates that a State Commission shall retain control of the question of security issues, but at the same time he would leave it to local regulators to say whether or not sufficient earnings might be made to pay the interest upon the securities that may be authorized by the State Commission and it is very easy to appreciate the lack of interest that an investor will immediately display toward utility securities.

While securities may be issued to pay for extensions ordered by local regulators with the authority of the State Commission stamped on them, the local regulators can and will turn around and make rates so low that not only must service suffer but interest cannot be paid and we will then have the situation of the public buying securities stamped with public approval, upon which interest cannot be paid because a local council uninformed as to the principles of regulation and with no degree of responsibility will not permit sufficient earnings to pay such interest. Surely this situation would not serve to encourage investment and this will not only affect the public utility but it will affect the public. It will affect you and it will affect me. It will affect every stockholder, bondholder and noteholder of public utility corporations. It will affect every person who deposits money in the bank. It will affect every person who carries a life insurance policy. It will affect every person who consumes the product or the service of the utility. Its effect will be reflected in property values in general.

I say to you that everyone is more vitally interested in this matter than he thinks he is. Practically everybody is directly affected whether he knows it or not. The security of utility stock, bond and note issues is now in the balance. I again quote Mr. Sisson:

"The average person seemingly thinks that simply because he owns no public utility securities he is not concerned with the financial condition of these corporations. This is a serious mistake, for the ramifications of the

fiscal problem of the public utilities affect, directly or indirectly, every phase of the economic lift of the communities they serve."

One speaker has said "Whose loss is it if the municipality has home rule? In the case of the utility it will primarily be the loser."

Aside from the evil effects which must follow, as above pointed out, there is no need of our blinding ourselves to the fact, nor is there any occasion to refrain from making this statement of the patent fact, which we all know—once impose municipal regulation upon us in this State and we will again have the good old days when the public utility companies were in politics. For their own self-preservation they must go into politics under the regulatory proposals that I have mentioned, because if they do not go in and spend the money to elect men friendly to themselves, unfriendly men will be elected to office and they will seriously be affected as will also the public and if they elect men to office, the bad effects to themselves and to the public will be just as great only in another direction. Political necessity should not be the medium of regulatory control.

We may discuss the cost of utility service and the economic problems that are involved in public utility affairs, but what good is the understanding of economic problems if we have sitting in our councils and our village boards a degree of intelligence that absolutely nullifies it, which defies economic law, which refuses to recognize cost of production and cost of service, yes, under proposed constitutional provisions need not recognize such costs as basis of price.

We have had many examples in the past two years of our courts enjoining the operation of the two cent fare law on the ground that it is confiscatory and unconstitutional. If municipal regulation be included in our Constitution with the provision in our bill of rights that property shall not be confiscated, we will have this example multiplied many times because as surely as municipal regulators would pass upon rates so surely will confiscatory regulations be made with consequent necessary appeals to our courts or to the courts of the United States, but the harm would not lie alone in this direction. It would be within the power of local regulators to bring such onerous burdens upon the utility companies arbitrarily that companies could not exist. You may say this would not be done. I reply it can be done.

In conclusion I have to say that if any one of these local municipal regulatory proposals be adopted the public will suffer as will the companies, because improper regulation will be reflected in loss of profits, inability to pay interest, impaired or abandoned service and inability to pay wages.

I trust you gentlemen will see the facts in the light in which I have pointed them out to you and that these proposed measures will be defeated.

I thank you for your courtesy and attention. (Applause.)

Mr. HAMILL (Cook). If Mr. Alschuler will return after supper to submit to questioning, I move that the committee do now recess until eight o'clock.

(Motion prevailed.)

Mr. ALSCHULER. I will agree to come back.

CHAIRMAN GARRETT. We have two more speakers, one from this State and who was formerly district attorney of Colorado, and who lives now in Chicago, and I know you will be greatly interested in hearing what they have to say, and I would like to have all the delegates return at eight o'clock if they possibly can.

Whereupon a recess was taken by the Committee of the Whole to eight o'clock p. m. Thursday April 1, A. D. 1920.

8:00 o'CLOCK P. M.

The Committiee of the Whole reconvened pursuant to recess.

Chairman Garrett in the chair.

CHAIRMAN GARRETT. If those present will kindly take seats. Owing to the large crowd, I would suggest that those present assemble around the center aisle as much as possible.

Mr. Alschuler is here, and will be pleased to answer any questions pertaining to the subject of his address.

Mr. CORCORAN (Cook). Mr. Alschuler, I believe you said that there were ample facilities on the statute books for public ownership; that was your statement, was it not?

Mr. ALSCHULER. Yes.

Mr. CORCORAN (Cook). Do you consider that a fact?

Mr. ALSCHULER. In view of the fact I have seen municipal plants all about, it would seem there must be some facilities, ample at least for those plants to operate.

Mr. CORCORAN (Cook). They borrowed money to operate from private parties, but there are no facilities for financing a good strong plant, are there, on the statute books; is that possible in the City of Chicago?

Mr. ALSCHULER. The city may issue bonds. Let me say something to you. I have no objections, as far as I am concerned, to the Constitutional Convention doing it, but if some provision be made so municipalities may own and operate the plants, if they see fit to do it, all right, well and good. In fact, I know there are plenty of utilities that only wish they had done so in the past few years, but it seems to me that is a matter that should be passed upon from time to time by a legislature rather than by a Convention.

Mr. CORCORAN (Cook). The only reason was, I questioned that one statement of yours.

Mr. ALSCHULER. "Ample" is a relative term.

CHAIRMAN GARRETT. Are there any further questions?

Mr. HAMILL (Cook). Mr. Alschuler, there was some reference in the course of your talk, and perhaps earlier, to the so-called contract ordinances and the disposition of the utility companies to break so-called contracts. Is the doctrine that contracts of that sort, or so-called contracts of that sort, are not binding, anything new in our jurisprudence?

Mr. ALSCHULER. I think the first case I know of in our jurisprudence is where a city broke a contract ordinance. The first case I have in mind is the City of Danville v. The Danville Water Company, decided in 1899, some fifteen years before the abolished Public Utilities Commission law was adopted, and if you will permit, I would like to say what the Supreme Court said. The Water Company contended that the ordinance of November 9, 1882, having been accepted and O. K.'d by the Water Company, constituted a valid contract between it and the City of Danville; that the subsequent ordinance of January 17, 1895, which provided for a substantial reduction was unconstitutional and void. The Supreme Court adopted the view, and rendered judgment in its favor. On appeal the Supreme Court reversed the judgment and remanded the case.

The Illinois Supreme Court decided that the city had no power to make a contract to pay fixed and unalterable rates for thirty years; that under the authority conferred upon it by the legislature "to contract for a supply of water for public use for a period not exceeding thirty years" the city could enter into an agreement with the Water Company whereby "the supply could be made for the entire term, but the price is to be determined from time to time, and the rates to be settled by the rules of the common law."

I want to quote some language from that decision:

"There was to be reserved to the City Council the power to fix the rates by ordinance at such figures as should be fair and reasonable. If the rates were to be fixed by ordinance, they could only be fixed by such ordinance as was legal and whose passage was within the power of the council. A legislative body cannot part with its powers by any proceeding, so as not to be able to continue the exercise of such powers. It has no authority even by contract to control and embarrass its legislative powers and duties. (Greenhood on Public Policy, p. 317; Cooley's Const. Lim. p. 206; 15 Am. & En. Ency. of Law, p. 1045; 1 Dillon on Mun. Corp, sec. 443.) What might be proper for a city this year might not be proper the next year. It is impossible to determine with absolute or even tolerable certainty what changes

a few years might work in the character and reasonableness of rates to be charged for water supply. No contract is reasonable, by which the governing authority abdicates any of its legislative powers, and precludes itself from meeting in a proper way, emergencies, or occasions that may arise. 'These powers are conferred in order to be exercised again and again, as may be found needful or politic, and those who hold them in trust today are vested with no discretion to circumscribe their limits or diminish their efficiency, but must transmit them unimpaired to their successors. This is one of the fundamental maxims of governments; and it is impossible that free government with restrictions for the protection of individual or municipal rights could long exist without its recognition.' (Gale v. Kalamazoo, 25 Mich. 354; Millikin v. County of Edgar, 142 Ill. 528.)"

That case has been followed in the recently decided case in Quincy in our Supreme Court.

Mr. HAMILL (Cook). I wonder if my memory is correct that that opinion was rendered after a rehearing had been allowed in that case?

Mr. ALSCHULER. My brief does not tell that. There were further appeals. It was finally decided in that way.

Mr. HAMILL (Cook). It did go up the second time, I remember.

Mr. ALSCHULER. I think it went up twice after that.

Mr. HAMILL (Cook). There was reference in the course of your remarks to the municipally owned electric light plant here in the City of Springfield, and I gather from what you said you are not fully in accord with what had been said about that earlier in the day. I understood you to say, or to imply at least, that that company was not earning; did I correctly understand you?

Mr. ALSCHULER. Well, if all the facts in connection with that plant are taken into consideration I think you are correct. I am not an accountant nor an engineer, and what little knowledge I have of accounting and engineering has been drilled into me, but I think I know a few of the things concerning the Springfield plant. For example, if I remember correctly, there was at one time a municipal plant right in the city, and a wire was run to the water works outside of the city, called a booster wire, if I remember the term correctly.

The electric plant—that was erected at the expense of the taxpayers—the electric plant was located out in the building of the water plant, at the expense of the taxpayers. The booster wire is now the main feed wire. It has been the practice here, for example, to run a wire to a fire engine house, we will say. There is one wire I believe that was recently run three miles to a park, for the ostensible purpose of lighting the park, at the expense of the taxpayers, but the minute it was in—and, by the way, the wire that runs to the park is attached to poles belonging to the privately owned electric company—no sooner was it in than they began to use it as a primary wire, by which they serve the private consumers. It is built at the expense of the taxpayers for one purpose and used in the private capacity, you might say, of the city, for another purpose.

I know in the appropriation ordinance—I am not so familiar with the appropriation ordinance this year, I made some study of it last year, for example, last year, they had in the appropriation ordinance $25,000 to pay unpaid bills. Let me see. I believe I have some paper on that. This year I believe it is $30,000. I have a little statement here.

For the fiscal year, 1917, the receipts of that plant were $63,724.45. The expenses vouchered were $84,786.76. The actual disbursements were $63,802.44.

For the fiscal year ended February 28, 1918, the receipts were $68,329.73. The expenses vouchered were $89,492.34. The disbursements were $68,356.06.

For the same period ended February 28, 1919, the receipts were $100,030.38. The expenses vouchered were $126,387.67. The disbursements were $98,242.08.

For the same period ended in 1920 the receipts were $114,787.84. The expenses vouchered $133,544.50; the disbursements $115,898.20.

And the total for four years, the receipts were $346,872.40; the expenses vouchered $433,811.27, and the disbursements $346,298.78. In other words, the expenses vouchered exceed the total receipts by $86,938.87.

Mr. HAMILL (Cook). What becomes of the excess?

Mr. ALSCHULER. If I may say one more word.

Mr. CORCORAN (Cook). Would you read those figures again?

Mr. HAMILL (Cook). What becomes of the excess of the expenditures vouchered over those actually made?

Mr. ALSCHULER. I can't tell you. I am not familiar enough with the plant. There are just a few things I am informed about. The value of the plant is approximately $250,000. He claims a profit of $34,000. In other words, the profit in the past year, according to his figures, was almost fourteen per cent, which is about twice what the Utitlties Commission of Illinois permits any privately owned utility to earn on the value of its investment.

Now, let us take also into consideration that this plant pays no taxes. A privately owned plant does. I cannot tell you correctly whether or not the allocation between the departments is correct. I am informed that among other things, the services of certain electrical employees, an electrical engineer, I believe, among others, was allocated between the water works and the light plant. I don't know whether that is true or not, but I don't know what business an electrical engineer has with a water plant.

Mr. HAMILL (Cook). Do you know what percentage of the total amount of electrical current consumed in Springfield is furnished by the municipal plant.

Mr. ALSCHULER. If I remember correctly, I think the municipal plant furnishes—is it 6 per cent?

A VOICE. Yes.

Mr. ALSCHULER. Six per cent, and the privately owned plant 94 per cent. But the 6 per cent is sold to the cream of the electrical business. In other words, it is sold to the people in the homes, who pay the highest rates, and the privately owned plant must bear the burden of the demands of the industries and the large power users who pay the smaller rates.

Mr. HAMILL (Cook). You interpreted the statement made this morning that the municipal plant charged about half of what the other did; that would be about half of what is charged to the private consumer?

Mr. ALSCHULER. Yes.

Mr. HAMILL (Cook). And not half what is paid to the wholesale user?

Mr. ALSCHULER. Yes.

CHAIRMAN GARRETT. Are there any other questions?

Mr. WOLFF (Cook). Mr. Alschuler, your talk this afternoon was certainly very explicit, and you have handled your subject very admirably.

Mr. ALSCHULER. Thank you.

Mr. WOLFF (Cook). To such extent that you would be the proper person to answer at least this one question.

Mr. ALSCHULER. I would be very glad to answer any question I can.

Mr. WOLFF (Cook). Well, I would like to ask you how long since the courts have held that contracts can be broken; and you have just quoted since 1915, I think.

Mr. ALSCHULER. No; understand me correctly, Mr. Wolff. I differ with you when you mention contracts can be broken. I know that in common language, among some people, they use the term "contract ordinance." That does not mean an ordinary contract. A contract ordinance is not different from any other kind of an ordinance. They hold such ordinances are not binding.

Mr. WOLFF (Cook). I would like to have you explain.

Mr. ALSCHULER. It is simply this: The power given to cities to grant frachises and fix rates is a police power. It may be taken back by the city at any time. The State, by the passage of the Public Utilities Law, did that very thing, and it took back into its own hands the regulation of all police powers concerning public utilities.

Now, the Supreme Court, back in 1899, in the case from which I just read in reply to Mr. Hamill's question, held that the city could not tie itself up to something that might become unreasonable in after years, and I want to say to you, Mr. Wolff, that if that were not the law today, the people would be suffering very severely, because utility companies, to render service, must have revenue at least sufficient to pay their operating expenses, their interest, their taxes and their overhead.

Mr. WOLFF (Cook). In your opinion, isn't there a moral obligation between a utility corporation and a city, like the City of Chicago, when they enter into an agreement or a contract?

Mr. ALSCHULER. When you speak about moral obligation of a contract with the City of Chicago, you overlook the people who compose the City of Chicago. When you speak of the City of Chicago you really are speaking of the city government of the City of Chicago. I want to say to you that if it was not possible to change these rates, the people of the City of Chicago would not be having the service that they are entitled to have.

Mr. WOLFF (Cook). That may be. I am not inquiring as to that. I am asking you whether there isn't a certain amount of moral obligation when they agree and sign a contract, or accept an ordinance as you will say?

Mr. ALSCHULER. I will answer you then, in this way: There is no moral obligation, because it is not a contract in the generally accepted sense of the term.

Mr. WOLFF (Cook). Then in other words, when the Chicago Surface Lines made a campaign, above the president's signature and in the pamphlets they issued, they were not serious and did not mean what they said; is that your opinion?

Mr. ALSCHULER. Mr. Wolff, I don't know what the Chicago Surface Lines did or did not do. I do not know this.

Mr. WOLFF (Cook). I mean at the time they made their campaign asking the people to vote for the ordinance.

Mr. ALSCHULER. I don't know anything about that. I have troubles enough of my own out in the country without paying very much attention to Chicago, but I do know it would be the people of Chicago who would be the worst off if the Surface Lines of Chicago were not permitted to earn enough money to properly function.

Mr. WOLFF (Cook). As you interpret the meaning, article 4 in the Constitution, section 23, would not apply at all to ordinance contracts, would it?

Mr. ALSCHULER. Evidently it has not, because the Supreme Court has held so. I don't remember the language.

Mr. WOLFF (Cook). The section reads as follows:

"The General Assembly shall have no power to release or extinguish, in whole or in part, the indebtedness, liability, or obligation of any corporation or individual to this State or to any municipal corporation therein."

Mr. ALSCHULER. That has no application there.

Mr. WOLFF (Cook). It has no application?

Mr. ALSCHULER. I can't see the application.

Mr. MOORE (Macon). I understand your figures there to contradict the glowing statement of the wealth producing quality of the municipally owned electric plant in Springfield?

Mr. ALSCHULER. I am very much afraid that, as I view the situation, I must disagree with the roseate picture that has been painted.

Mr. MOORE (Macon). I was not altogether clear in my mind as to what you did mean, but I thought that was it.

Mr. SPAULDING. Mr. Chairman,———

Mr. HAMILL (Cook). I don't think this committee will be aided at all by having one of the gentlemen who is invited here to address us put questions to another.

Mr. ALSCHULER. I think the questioning should be confined to the members of the committee. If the gentleman wants to do any questioning he can do it through a member of the committee.

CHAIRMAN GARRETT. Owing to the rule, and the objection, I will have to say, Mr. Spaulding, if you will allow some delegate to put such questions as you see fit, it will be proper.

Mr. CORCORAN (Cook). Mr. Spaulding's veracity has been attacked. I think in fairness to Mr. Spaulding he should be allowed to explain himself, and I believe all the members of the committee feel the same way. I imagine he would have an opportunity if it was put to a vote.

Mr. HAMILL (Cook). Mr. Chairman, I didn't intend my objection to go to a hearing from the gentleman named if he wants to speak, but I object to having a cross-examination of one speaker by another.

CHAIRMAN GARRETT. If Mr. Spaulding wishes to address this committee again, why, we no doubt will be pleased to hear from him.

Mr. SPAULDING. Mr. Chairman, I was going to ask the Chair for about fifteen minutes. I have sent over to my office for the book that contains the figures.

CHAIRMAN GARRETT. Are there any other questions?

Mr. ALSCHULER. I would like to make one statement. That is with respect to the Springfield plant. It is based upon an analysis, what I have said, based upon an analysis to the best of my ability, of all of the reports of the plant, and of the appropriation ordinances of the City Commission of Springfield, which I think were available to any member, who may see them and make investigation of them.

I thank you, gentlemen.

CHAIRMAN GARRETT. Gentlemen of the committee, Mr. Otis F. Glenn, of Murphysboro, an attorney, will now address us.

Mr. GLENN. Mr. Chairman, gentlemen of the Convention:

It seems that nearly all the State has been represented here today and this evening, except the best part of Illinois. I am here, rather lonesome, all day and tonight. I hail from Egypt, generally recognized now as the greatest part of the State of Ilinois.

I have been interested in this discussion, not entirely new, but I will not take much of your time. I have been somewhat surprised at the modesty of the claims of the gentlemen asking what they term home rule, borrowed, possibly, from President DeValera, of the Irish Republic.

Mr. LATCHFORD (Cook). Pardon me. You are mistaken and I wish to correct you right now. President DeValera, if I were to use the Irish term, is a Sinn Feiner, or self-determination.

Mr. GLENN. Thank you.

Mr. LATCHFORD. I just wanted to correct you.

Mr. GLENN. Yes, sir. What I am unable to perceive is this: If the so-called home rule is so beneficial and will be so beneficial to the various municipalities and their citizens, why should it be limited to public utilities purely? That is the only discussion of any moment here today.

It seems to me that public utilities should be governed by a State wide commission, for the reasons which have been advanced by other speakers; that the municipalities are unable to properly and definitely and with sufficient information and expert advice pass upon the reasonableness of the rates, the various working conditions and safety conditions of the operation of the utilities, the authority of issue of securities and the various other matters covered by the Public Utilities Law.

If the men of these various municipalities, some of which only are represented here today, are able to pass with knowledge and with definite information and fair judgment upon what is right and reasonable for an electric light concern to charge its consumers, or a water or gas or telephone or street railway concern to charge its patrons, why not extend their influence to these other powers, which they don't now have? Why is it that we hear no argument that the banks of this State and of the municipalities of this State shall not also be included within the power of these home rule magistrates?

Any mayor or commissioner or alderman who is competent to pass upon the manner of operating a great public utility, such as an electric light plant, and the proper amount which should be charged to its patrons, is well

able to pass upon the securities offered to a bank of his home city and what rate of interest its citizens should pay. If that be true, if these men should have this home rule as to utilities, let's not confine it. Let's give them the other things which they could so well manage. Let's strike out this provision, either of the Constitution or of the law of the State, which has recently been adopted and is now before you, that private banks shall be abolished, and leave it to the mayors and the aldermen and the commissioners to say whether the City of Murphysboro shall allow private banks in its limits. Let us strike out all regulation of building and loan associations, because I know full well that the mayor of my city and the four or five other commissioners know more, or as much about the value of the little homes down there as they do as to the reasonableness and the value of those public utilities which we have there, and they know who are able to pay a loan back if they get a loan from the building and loan, so let's give them that power too, if they have this ability and knowledge and fairness, and let's let the mayors and the aldermen and the commissioners say who shall borrow money, who shall get loans from the building and loan associations. Let's let them say what kind of insurance companies can come into Murphysboro.

To use it simply as an illustration, if they are able and competent and fair and reasonable enough to say how much utility property is worth, if they have the gas experts and the accountants and the way of obtaining proper information as to what a utility shall charge, and as to its manner of operation, then they are equally competent to say whether any insurance company is sound, and what rates they should charge, so let's throw away those restrictions which we have seen fit in former years to pass over to the State authorities, and say you shall allow home rule as to those things, and let Quincy and Chicago and Cairo and Murphysboro and Mt. Vernon say to an insurance company, "You can come in or you can stay out, but if you come, you can only charge a certain rate."

Why not say to them this; Let's give these home rule people full authority if they are able to administer their utilities properly and fairly and reasonably. Why, it is an intricate subject. Why can't they pass upon the qualifications of a doctor or a surgeon who comes in to treat these people? Why, here, you have been educated in Heidelberg, or in Washington University, or Rush. Let's let the mayor and the commissioner say, "Doctor, you come in," or "Doctor, you stay out." Certainly they could pass upon the ability of the lawyers. You won't need a Bar examination under the direction of the Supreme Court of the State of Illinois. Say, "Here, that fellow is a pretty good fellow; I have seen him before a justice of the peace a number of times; he ought to be allowed to practice in Murphysboro. He can't hurt anybody. If they don't want to hire him, they don't have to hire him."

If these men know enough to pass upon these other momentous things, they should be allowed the authority and the privilege of passing upon the qualification of the horse doctors and veterinarians, or the qualifications of their barbers.

I say it seems strange they should be so modest here. As has been said, I hold no brief for the Public Utilities Commission. I have had a few cases before them on both sides, and I have had a little experience with home rule.

Let me call your attention to the fact that this Home Rule League represented here today represents about 160 municipalities of the State of Illinois, and they have drummed the woods and they have beaten the brush to get them to belong and join this thing.

In our little County of Jackson we have eleven municipalities eligible to membership. Judging that as an average, there must be at least 1,500 municipalities eligible to membership in this Home Rule League, about 10 per cent of whom have seen fit to join it and to come here and allow these gentlemen to speak in their behalf.

Let me call your attention further to the fact that no private citizen, except some former official, some ex-official, some present official, has appeared at this meeting advocating home rule for his city.

We all love power. No one loves power more than the alderman or the commissioner or the mayor of the ordinary city of the State of Illinois, from Chicago down.

It has been asked here of various speakers whether they favored home rule; whether they thought the city should be allowed a great, wide latitude of power. I don't know what other people think of it, some want one way and some the other, but I am not one who believes very much in granting great power to the aldermen and the mayors of the various cities throughout the State. Sometimes we have good aldermen, sometimes we have good commissioners, sometimes we have good mayors. We are blessed with good mayors in each of our principal cities, Murphysboro and Carbondale. We have not always been so blessed, and if I was to believe the unanimous opinion of the Chicago newspapers the greatest city of the State of Illinois has been damned with horrible mayors almost from the time of its inception.

They are the kind of people. Who is it that speaks a good word for the mayor of our greatest city? I don't know much about him except what I read in the Journal and the Tribune and the Post and the Chicago Daily News, but I want to say to you, if he is the kind of a man they say he is, he already has too much power, and the good citizens of the City of Chicago here today should tie up his hands and not give him any more power, but take away from him that which he has.

Now, we had a little experience not long ago with a strike in our public utilities at Murphysboro. Mr. Alschuler happened to be the attorney. We have a little town that claims about 15,000—and has about 8,000—like the rest of these municipalities. The utility company there furnishes electric light, gas and power. It is owned by Mr. Copley; that is, he controls it, as I understand. As I said before, I think we have one of the best mayors in the State.

Something like six or eight months ago the men down there working for these plants decided they had to have more money. They didn't see fit to arbitrate. Mr. Alschuler, I believe, wanted to arbitrate, but they served notice that unless this difference in wages, amounting to some $30,000 a year was granted within twenty-four hours, they would strike; that they would tie up our water, cut off our water, cut off our lights, cut off our gas. It was a public disaster that we faced. I, assisting some other people, finally obtained their consent to lengthen that time twenty-four hours, and we sent for this man Alschuler to come down.

Now, we have a hospital there, the largest in that end of the State, a Catholic hospital, run not for profit. It had some sixty patients, some alive, some dead and some suffering, depending for their light, their water, their gas, absolutely upon this utility. We thought it was a disaster that we faced. In that moment the power of the mayor, the power of the city commissioners, of all times home rule, to the full extent of the authorities, should have been exercised, should it not?

Now, men, I am not attacking anyone. I am speaking here because it is a matter of importance, and I am telling you the fact. You would have thought our mayor, who was on the executive board, I think, of this Home Rule League—if he is not now, he has been recently—you would have thought he would have pulled off his coat and got those union men and these utility men together, wouldn't you, to save the city from destruction, to save the suffering in the hospital? What does this advocate of home rule do? What does this member of the executive board of this League do? Men, when Alschuler was on the way to Murphysboro, the mayor jumped the train for Granite City to attend a firemen's convention. It is a fact.

Alschuler came down there, and their general manager, Willett, came down there, and some of the citizens were still in town that were not invited to the firemen's ball, and Mr. Alschuler said, "We will arbitrate; we will do anything we can." The men finally agreed to this. The utility

company selected Mr. Alschuler and the labor men working for the plant selected the speaker here and one other man, and we went in and settled the thing in thirty minutes.

Now, that is all true, yet when the legislature met not long ago they had here a demonstration. Some two hundred mayors and city attorneys paraded down the streets and paraded into the legislative halls.

Why? For the purpose, possibly, that has been stated by one delegate here today, has been practiced before this Convention—for the purpose of political intimidation, to show their power.

Why this outcry against the Public Utilities Commission? Is it the outgrowth of sober reason and sentiment? I say that it is not. It is caused by the fact that the Utilities Commission, about the time it came into being, was confronted with these abnormal, unreasonable conditions. They were finally compelled, in almost every instance, when they came before the Commission, to ask for rate increases, never for rate reductions. The people could get no rate reductions because everything else was going up, labor, material and all sorts of supplies, and every hearing that was had resulted, almost necessarily, in an increase of rates, and the public and the people naturally don't like to pay more for anything, and it made the Commission unpopular with the people; and I say if the Commission had not been big enough and fair enough and brave enough to stand up in the face of doing those unpopular things and do their duty, then the Commission should be abolished.

They have done that, and that is why they are, in some communities where the people are not fully informed, an unpopular body at this time; but let the times change, let eggs go down, butter go down, clothes go down, copper wire and poles and all those things go down, and the people and the mayors come in to the Commission, and the Commission grant reductions, they will again become a popular body.

Like a court, you never saw, or I have never seen, a man in my life, who was not verily wisely informed, lose a lawsuit in a lower court, or in a court of appeal, but what he almost lost faith in our judicial system. That is the same with this.

The other day I was over at Benton—this is a matter of sworn testimony—representing a little telephone company in a rate case before the Commission, in the city of Benton in Franklin county. An injunction had been asked enjoining the Commission from granting an increase in rates, a temporary increase in rates. In that bill for injunction, gentlemen, were sworn charges against this Commission, charging them with collusion, with conspiracy and virtually with fraud.

That thing was argued one night in Benton right after a murder trial, with upwards of a thousand people in that court room. In the argument there, everybody talked in the most vitriolic language. I thought I was lucky to get out without being tarred and feathered at least. Everybody was with the other side, except the judge, the youngest circuit court judge in the State, who had the courage to follow the law and deny the injunction; and, gentlemen, within twenty-four hours after that argument that night—it was argued until midnight with that entire jury out in the other room—within twenty-four hours two or three of those lawyers whose names had been signed to that bill charging this Commission with fraud and conspiracy and collusion, had telegraphed and written the Public Utilities Commission and the Attorney General's office of this State withdrawing their names, and saying they never authorized them to be signed to any such bill as that, and yet this thousand people up there that heard the charges hurled at this Commission, charging them with conspiring, with fraud, with collusion, many of them will never have their ideas corrected as to this Commission. And so these lawyers have gone about now without exception, gentlemen—and this is a matter of evidence and a matter of documentary proof—they have apologized. Every time I meet one of them he apologizes to me. One of them said he was sick and the other one said he didn't know what was in the bill. Judge Gilbert knows these lawyers if I would name them to him. The Attorney General's office can verify the statements.

We had another hearing in Benton before an examiner from the Public Utilities Commission. This bill charging fraud was sworn to by the mayor of Benton, Illinois, a gentleman named Skinner. That morning upon the stand he swore upon cross-examination, the man who signed the bill, that he had been having complaints against the telephone company for several months, and the examiner asked him whether he had objected in his official capacity as mayor, and filed complaint with the Commission. He said, "No, I never did." The examiner said, "Why?" He said, "Because I had been advised by two lawyers," giving their names, "that it would be useless; the expense was so great and the attitude which the Commission would take towards us was such it would not pay us; we could get no relief from them." After the Commissioner was through, I said, "Now, Mr. Mayor, this is the first experience you have had with the Public Utlities Commission, isn't it?" He said, "Yes, sir." I said, "This has been going on some time; you have had a hearing in Benton practically all day; what do you say now as to the Utilities Commission?" He said, "Mr. Glenn, I will have to say that their treatment of us has been very favorable."

There has been a campaign of misrepresentation. The people have had the idea drilled into them that the utility men are not fair, this Utilities Commission is not fair to the municipalities or to the public.

Now, it has been said here by the gentleman from Cleveland, if you take the power largely away from the legislature that graft will be eliminated to a large extent, that corruption will cease, and that is an argument which he advances.

There is nothing in that argument. It is a boomerang. It simply means this: It means if there is any grafting done, it will be transferred from the legislature to the aldermen, to the mayor and to the commissioners. That is what it means. It means that they will graft all over the State of Illinois.

You are all familiar with Chicago, with the newspapers. Many of you are much more familiar than I am. In the newspapers of the City of Chicago I have never seen any direct charge made as to the honesty and the integrity of any member of this Utilities Commission, present or former. I have seen them charged with a great many things, but as far as direct graft has gone, I have never seen that charge made, and yet before this Commission came into being you could hardly pick up a paper of the City of Chicago—you men know this better than I—without reading two or three columns about the grey wolves in the City Council. If this Utilities Commission law has not done anything else, it has exterminated that fearful animal, because you don't see anything more about the grey wolves in the City Council of Chicago. I haven't, at any rate, for a long time.

Now, men I have taken up more of your time than I had expected. This is supposed to be a country of progress. I think the United States is getting better than worse. I am one who believes that our States are progressing in their laws. I believe we are getting at all times a higher grade of intelligence in our legislatures and among our legislators.

Why is it, if these Public Utilities Commissions are such awful things, and are not necessary, and should not properly be continued in this State of Illinois, why is it that this movement has swept in the last ten or twelve years from one State to the other until now there are forty-four States which have similar commissions? If it is a bad thing, why is it it has swept from the Atlantic to the Pacific and from the Gulf to the Great Lakes? Why is it, if it is such a bad thing and should not be permitted longer in the State of Illinois to continue, why is it that in no State where it has been adopted has it ever been repealed, as I understand the present situation?

Why is Illinois asked to be the first State in this Union to take a step which I sincerely believe to be a step backward in the repeal of this law?

Our municipality has no power, has no money, has no funds, has no experts to combat the utilities when they file an application. True the Utilities Commission itself provides experts, and in this case which I mentioned here they demanded in loud tones before the Commission an opportu-

nity to send their auditors to look over our books, to send their expert accountants to look over our books and records, to send their engineers to appraise our property. I was not disposed to have any one whom they might want to send going over our private records, but upon due consideration I opened the doors to them. I said, "Examine all our books and records; come into our plant wherever we are operating; our books, our records, our physical property is open to your experts."

Gentlemen, although they said they had the Chamber of Commerce behind them—this is simply typical—they had unlimited funds almost; there were ten or twelve lawyers on the other side of this case; there were some seventy-five people up there protesting; although this permission was given them and granted them, they have never taken advantage of that, although that matter has been proceeding for some time, more than three months now, but they asked this body, in whom it would appear that these municipalities have no confidence, they asked them to send their expert accountants and expert engineers to appraise our property, which they are doing now at considerable expense to the State, so I say they have their recourse.

I claim that the idea of this Commission is entirely right and proper. I am one who believes a good deal in government by commission. I think it would be a good plan if there could be a commission to control and govern these great coal mines in the neighbrhood from whence I come. I think it would be a good idea if there was some commission like this Utilities Commission in cases like the recent increase amounting to some twenty-five or thirty cents a ton, to say to those mines, "You can't load onto the public of the State of Illinois a dollar or a dollar and a quarter or a dollar and a half a ton to take care of that twenty-five or thirty cents." I don't know, if it would be practicable, but what it would be a good idea to have a commission which would limit the rate of return these great wholesale grocers are making upon the necessities of life, and so on down the line.

Why is it men that alone, of all things, we are told that home rule should be given to the utilities? The Industrial Commission in a measure is regulating the safety and the lives of the employees of the mines. We have factory inspections and rules laid down, not by the municipalities but by the State of Illinois. They can come to Murphysboro and go into our shoe factory there and examine and inspect the working conditions; and I say it is a good law and it should not be left to the various aldermen of our city, honest and upright though they may be. They are not familiar with that subject nor with the subject of public utilities.

I say that the mayors of our cities and the municipal bodies can as well and as intelligently govern and control the health conditions of Murphysboro as they can control the utilities. Why not abolish the board of health and in its stead place the mayors and the councilmen of the various municipalities of the State?

I believe when I speak here in this small way, I am only trying to serve the interests of the people of my country. I believe I have as much right to come here—and of course it has not been questioned—to speak on behalf of our citizens as has the mayor of a municipality to come in an official position.

I believe the man who comes here and seeks to have this Public Utilities Commission abolished and these things turned back to the olden times and the old regime is seeking to do that which is a detriment to his community and to the people and to the public of the State of Illinois.

I don't think, gentlemen, that Illinois will go back to the old order, a step backward. Rather I think it will advance from time to time as it has continually done in the past.

I thank you. (Applause.)

CHAIRMAN GARRETT. Is there any delegate who wishes to ask any questions? We have with us Mr. Eugene Kelly, an attorney at law at Chicago.

Mr. EUGENE KELLY. Gentlemen of the Constitutional Convention:

For three long months you have been toiling in the formulation of a Constitution for the people of this State. About every conceivable proposi-

tion that could be made by one man and another has been made to you with the hope it may be embodied in the instrument which you shall finally propose to the people of this State.

The gamut of the situation is well illustrated by the long line of propositions from the single standard of morality to the reading of the Bible in the public schools. It occurs to me, as a student of law and as a student to some extent of the Constitutions of the world, that there must be a limit somewhere to what ought to go into a Constitution.

It has suggested itself to me to make some feeble effort to ascertain what the limits are which the great commentators have formulated for the direction of men engaged in the work in which you are engaged, and to ascertain if possible what the great judges have said who have passed upon the duties in which you are now engaged, and who have laid down in their decisions some principles for the guidance of men.

For three months, as I say, you have lived in a whirlwind of suggestions about the content of this forthcoming Constitution. I have no fear in making the statement—and I have made some investigation of these propositions—that nine-tenths of the things that have been suggested to you have absolutely no business in a Constitution at all, and that a great majority of them have absolutely no business in statutory law at all.

I have heard defended here today things that are not merely the statute law of the State but are the common law of the world, and they require neither Constitution nor statute to give them the force of imperial sovereignty, things that are embodied in the history of man, and they are as much a part of the Constitution of the world as your blood corpuscles are of your body.

Why, it is proposed that you should put into the Constitution a mandate that the charges which are to be made upon railroads or by service corporations shall be reasonable. Why, that has been the law for hundreds of years, long before Illinois was born, and nothing can ever stop it from being the law except a mandate from this Constitutional Convention approved by the people, or a statute by the General Assembly, which is vested with all of the legislative power of the people of this State.

Nine-tenths of your propositions are propositions that are wholly useless as matters of law, and they are the law already.

Some things are suggested here with reference to the framework of government which are proper to consider, because if right and if desirable they could properly be put into a Constitution, but the great, vast majority of this stuff, and I say stuff advisedly, is wholly useless to be talked about in a Constitutional Convention, and it is only supererogation for any body of law producing men to approve them or to use them in any sort of formal document.

Now, there is a vast misapprehension as to what a Constitution is and as to what ought to go into a Constitution, and as to what it is for. Let me suggest a few things with reference to that:

The people of the United States are a sovereign people; they are an organized society, and they have all the powers of sovereignty among the nations of the world. The people of the United States have divided that sovereignty among certain officers who represent them. If they could all come together in one room or in one place, it would be absolutely unnecessary for us to have Constitutions at all in the sense in which you know them. They could come together from day to day; they could make law from day to day, and conduct the business of the public from day to day, so that Constitutions to a large extent would be unnecessary. Some parliamentary rules would probably be advisable, but the Constitution, as such, would be unnecessary. The only reason why we need a Constitution is because the people cannot all come together, and they are bound to use their sovereign power through representatives of some sort, public officers, we call them.

Now, the people of the United States have selected two classes of public officers. They have selected the Federal class and they have selected the State class. They have deposited in the hands of those officers whom they

call Federal certain powers which we call Federal powers, generally speaking, those powers which have to do with national affairs and international affairs. Those powers because, as historically they were developed and fixed, coming from the original States as they do, had to be expressed in some sort of documentary form, so we had the origin of the Federal Constitution, and in the Federal Constitution——

Mr. HAMILL (Cook). Mr. Chairman, I dislike very much to interrupt the speaker, but if he could discuss the subject under discussion, namely, the question of home rule for cities, I think that is proper.

Mr. KELLY. I think I have given a wrong impression. I am coming to a proposition which I think is fundamental.

Mr. HAMILL (Cook). All right, sir.

Mr. KELLY. Now, I will say this to you, if I may: That the only power which the Federal Constitution gives to the officers of the Federal Government is that power which is delegated and described and specified in the four corners of the instrument. Now, if a Federal authority, either a Federal officer or a Congress of the United States, desires to use any specific power, then that officer must find the power specified in the instrument.

Now, according to that proposition, the Federal Constitution ought to be very much longer than the State Constitution, because the State Constitution is under no such necessity inherently. It is unnecessary to state in the State Constitution the powers which the officers shall use. When the framework of the government is once established and when the powers are divided among the three classes, then those departments go to work and use all of the power which the State has and when a State officer acts, when the General Assembly acts, it is not necessary to find in the State Constitution in specific words the power as it is in the Federal Constitution.

Now, I come to the proposition which I am aiming at here; that a Constitution for a State ought to be short. There ought to be very few provisions in it. In the first place, it ought to divide the power which the State has among the officers who are to use it. The State legislature, for instance, when it receives the usual grant of power which a State legislature receives in the Constitution, will receive a grant, in other words, something like this: All legislative power shall be vested in a General Assembly.

Now, I want to call your attention to this fact: That ouside of the bill of rights and outside of the provisions for the framework of government, every other proposition which you put into the Constitution is a limitation on the power of the people. By saying that the legislature shall have all legislative power, the people have preserved unto themselves all the power which they have, and they can use it through their General Assembly; and that leads me to the proposition that I started out with: That it is unnecessary to do any granting of power to the legislature, and the further proposition which seems to me is fundamental here in this matter which we have discussed today, that if you want the people to remain absolutely free to use all of the power which they have, you will put nothing in your legislative section except the general granting of power to the legislature, and add nothing except whatever provision you may want to make to protect your bill of rights and keep your bill of rights from the enactment by the legislature of certain questions of legislation which might otherwise be excluded. For instance, your due process of law. That provision may cover some things that you want the legislature to have the power to do. For instance, in that Workmen's Compensation Act legislation, that has been held to violate the due process of law in some States, and if you wanted to be sure, that might be incorporated, although it is not entirely necessary.

The general proposition is, therefore, that a Constitution of the State, if the people are to keep all the powers which they want to exercise, and are to exercise them properly and quickly, ought to be a short Constitution, and I say that all of these things which you have discussed here today are absolutely within the power of the legislature in this State, and if the people want to resort to these things and want to use them, they have more power to use them when the power is in the legislature than they have when the

power is put into the Constitution, because when it is there, they are inhibited from the use of that for a long period of time.

Now, I want to call your attention to the fact that what I have said is borne out by the authorities, and the authorities bear out the proposition. This subject matter which we have had before us today is not the proper subject matter for a Constitution, and I submit all these authorities and ask you to judge of them:

United States Circuit Judge McCrary, speaking in 1883, in the United States Circuit Court, approved the following proposition:

"The Constitution is not a grant of power, or an enabling act, to the legislature. It is a limitation on the general powers of a legislative character, and restrains only so far as the restriction appears, either by express terms or by necessary inference."

The Supreme Court of Arkansas, in the first column of its reports, said:

"The Constitution of a State is the supreme, organized, and written will of the people, acting in convention, and assigning to different departments of the government their respective powers. It may remove and control the action of these departments, or it may confer upon them any extent of power not incompatible with the Federal compact. By an inspection and examination of the Constitutions of our country, they will be found to be nothing more than so many limitations upon the departments of the government and people."

The Supreme Court of Illinois, speaking in 1842, said:

"A different rule obtains in interpreting the powers in the Constitutions of the United States and the States. In ascertaining the powers of the former, we examine to see what powers are expressly granted or are necessarily implied for their exercise. In the latter we only examine to see what are denied by the Federal and State Constitutions. And my view of the law-making powers of these State governments is that they can do any legislative act not prohibited by the Constitutions; and without and beyond these limitations and restrictions they are as absolute, omnipotent and uncontrollable as Parliament."

The Supreme Court of Illinois, spaking in 1858, said:

"While Federal government is one of delegated powers, supreme to the extent of the power granted, that of a State is rather to be regarded as a limitation of the legislative department, and it is competent for the legislature to exercise all powers not forbidden by the Constitution of the State, not delegated to the general government, nor prohibited to the State by the Constitution of the United States."

The Supreme Court of Illinois, speaking through Chief Justice Breeze, in 1869, said:

"The whole legislative power of the State is conferred by the Constitution upon the General Assembly. It follows, therefore, that every subject not withdrawn from them by the Constitution, and which is within the scope of civil government, can be dealt with by that body."

The Supreme Court of Illinois, speaking in 1878, said:

"The General Assembly may exercise all power not conferred on the general government or which it is not prohibited from exercising by constitutional limitations. This being true, has the General Assembly power to control natural persons and corporations in their business, to protect the community from oppressive, unjust and wrongful impositions in transacting their business or in performing their duties to the public."

The Supreme Court of Illinois, speaking through Mr. Justice Joseph N. Carter, in 1895, declared:

"No proposition is better settled than that a State Constitution is a limitation upon the powers of the legislature, and not a grant of power, and that the legislature possesses every power not delegated to some other department or to the Federal government, or denied to it by the Constitution of the State or of the United States."

Mr. HAMILL (Cook). This Convention is fully informed on that proposition, and I do not think it is necessary to take up the time of the Com-

mittee of the Whole in any further discussion of what properly belongs in the Constitution on that subject.

Mr. KELLY. Very well. I will call your attention to some propositions laid down by the courts as to what a Constitution should contain, if I may proceed upon that subject.

The Supreme Court of Missouri has declared:

"A Constitution (is) a fundamental law as distinguished from a temporary act, and (implies) an instrument of a permament nature."

The Supreme Court of South Carolina, in one of its early decisions, said:

"A Constitution is not the beginning of a country, nor the origin of appropriate rights. It is not the foundation of law, nor the incipient State of government. It grants no rights to the people, but it is the creature of their power, the instrument of their convenience. Designed for their protection in the enjoyment of the rights and powers they possessed before the Constitution was made, it is but the framework of political government, and necessarily based on the pre-existing rights, habits and modus of thought."

The Supreme Court of California said:

"The term 'Constitution' implies an instrument of a permanent and abiding nature, and, while it contains provision for revision, it indicates the will of the people that the underlying principles upon which it rests, as well as the substantial entirety of the instrument, shall be of a like permanent and abiding nature."

The Supreme Court of the United States, in an early case, laid down the true principle of constitutional law as follows:

"The Constitution of a State is stable and permanent, not to be worked upon by the temper of the times, nor to rise and fall with the tide of events; notwithstanding the competition of opposing interests and the violence of contending parties, it remains firm and immovable, as a mountain amidst the strife of storm, or a rock in the ocean amidst the raging of the waves."

Mr. Justice Story, speaking for the United States Supreme Court, in 1816, declared:

"The Constitution, unavoidably, deals in general language. It did not suit the purposes of the people, in framing this great charter of our liberties, to provide for minute specifications of its powers, or to declare the means by which those powers should be carried into execution. It was foreseen that this would be a perilous and difficult, if not impracticable task. The instrument was not intended to provide merely for the exigencies of a few years, but was to endure through a long lapse of ages, the events of which were locked up in the inscrutable purposes of Providence. It could not be foreseen that new changes and modifications of power might be indispensable to effectuate the general objects of the charter; and restrictions and specifications, which at the present time might seem salutary, might, in the end, prove the overthrow of the system itself. Hence its powers are expressed in general terms, leaving to the legislature, from time to time, to adopt its own means to effectuate legitimate objects, and to mould and model the exercise of its powers as its own wisdom and the public interests should require."

Chief Justice Marshall, speaking for the United States Supreme Court, in 1821, declared:

"A Constitution is framed for ages to come, and is designed to approach immortality, as nearly as human institutions can approach it."

Mr. Justice Brewer, speaking for the United States Supreme Court, in 1894, in a famous case, declared:

"Constitutional provisions do not change, but their operation extends to new matters as modes of business and the habits of life of the people vary with each succeeding generation."

Applying this principle to "the grant to the national government of power over interstate commerce," Mr. Justice Brewer further said:

"The Constitution was not changed. The power is the same. But it operates today upon modes of interstate commerce unknown to the fathers,

and it will operate with equal force upon any new modes of such commerce which the future may develop."

In Re Debbs, 158 U. S. at 591.

The same great judge, speaking for the same high court, in 1905, said:

"As changes come in social and political life, it (the Constitution) embraces in its group all new conditions which are within the scope of the powers in terms conferred. In other words, while the powers granted do not change, they apply from generation to generation to all things to which they are in their nature applicable."

Now, I want to call your attention to what some of the great commentators have said:

In his work entitled "The State," writing in 1889, at pages 488 to 489, Woodrow Wilson said:

"One of the most characteristic features of our State law is the threatened loss of all real distinction between constitutional and ordinary law. Constitutions are of course advertised by their names to be bodies of law by which government is constituted, by which, that is, government is given its organization and functions. Private law, the regulation of the relations of citizens to each other in their private capacities, does not fall within their legitimate province. This principle is fully recognized in the construction of our Federal Constitution, which is strong and flexible chiefly because of its great, its admirable simplicity and its strictly constitutional scope. But constitution-making in the States, especially in the newer States, has proceeded upon no such idea. Not only do the Constitutions of the States go very much more into detail in their prescriptions touching the organization of the government; they go far beyond organic provisions and undertake the ordinary, but very different, work of legislative enactment.

"The objections to the practice are as obvious as they are weighty. General outlines of organization, such as the Constitution of the United States contains, may be made to stand without essential alteration for long periods together; but in proportion as Constitutions make provisions for interests whose aspects must change from time to time with changing circumstances, they enter the domain of such law as must be subject to constant modification and adaptation. Not only must the distinctions between the constitutional and ordinary law hitherto recognized and valued tend to be fatally obscured, but the much to be desired stability of constitutional provisions must in great part be sacrificed. Those Constitutions which contain the largest amount of extraneous matter, which does not contain at all the structure or functions of government, but only private and particular interests, must, of course, however carefully drawn, prove subject to most frequent change. In some of our States, accordingly, Constitutions have been as often changed as important statutes. The danger is that Constitution making will become with us only a cumbrous mode of legislation."

Cooley, one of our greatest writers on constitutional law, writing in 1880, in his "Principles of Constitutional Law," at pages 23 and 385, said:

"The weaknesses of a written Constitution are, that it establishes iron rules, which, when found inconvenient, are difficult of change; that it is often construed on technical principles of verbal criticism, rather than in the light of great principles; and that it is likely to invade the domain of ordinary legislation, instead of being restricted to fundamental rules, and thereby to invite demoralizing evasions.

"It may be said, perhaps, that, as a matter of principle, only those subjects should be embraced (in State Constitutions) which are fundamental, and not those in regard to which the policy or interest of the State may vary from time to time and which may be properly left to the control of the legislature."

Mr. MOORE (Macon). We would like to hear something on municipal government. We have heard a good deal of talk and have spent a long time in Committee of the Whole listening, and I would like for one, to hear something on municipal government. We don't know all the profound wisdom the gentleman is reading, but that has nothing to do with the subject under discussion today.

CHAIRMAN GARRETT. This is an open meeting of the Municipal Government Committee, that is, the Committee of the Whole, and I am sure, Mr. Kelly, that the delegates expect most of the addresses to be addressed to that subject.

Mr. KELLY. Of course, I want to give what the gentlemen want to hear; what I am trying to do is to convince them that the scientific way to make a Constitution is that which the writers have approved.

Mr. BARR (Will). We have discussed in various meetings heretofore had the entire scope of the subject of what should and should not go into the Constitution, and therefore I am inclined to think that the delegates perhaps are pretty well advised of all the holdings that have been had in this country on this subject. Some of the delegates are a little anxious to get out, and I think possibly it might be more profitable to confine your remarks entirely to municipal government matters.

Mr. KELLY. I was asked to present a legal argument on the question as to what a Constitution should contain and what it should not contain.

The direct question here is whether the things that are advocated here belong in this Constitution. Is not that the proposition? The question is whether the right to fix rates and to regulate service with respect to these public service corporations ought to be given to the municipalities or whether it ought to be retained in the State to be exercised by a public utility commission.

Some time ago this question was raised before our legislature and was discussed thoroughly before the Senate and House and certain questions were submitted to the public utilities commission by the legislature, and it answered those questions and went into a great many of these subjects in a special report to the legislature.

Every State in this Union has a public utilities commission, or a commission by some name which has the functions or most of the functions of the public utilities commission in this State, except Delaware. I understand Delaware is the single exception. Not only that is true, but when the law which we now have on our statute books was under discussion, and the question was whether it should be passed for the regulation of public utilities, a commission was appointed to make an investigation. They went to nearly all the larger towns in this State and they went to places outside this State and had hearings in all these places and made a report against the inclusion of the provision of giving municipalities the power to fix rates, they reported against that in 1913 and then came the establishment of the act, and your act took the other position, namely, that the power should not be given to municipalities; then in 1917 the legislature made an investigation of this same question and made a further report and reported against the inclusion of this proposition in the statute laws of the State. And then in 1919 there was that very strong, vigorous attempt to get the law of this State changed by presentation of very strong and forceful lobbies to the legislature, and they declined in 1919 to change the law, and then came the report of the commission held that no such provision ought to be included in the law.

Now, I call your attention to the situation we are in here; these men come here with a proposition to give home rule over public utilities to the cities of the State. They cannot point to a single and commercially successful working out anywhere of that proposition; the only thing they can point to is a grave yard for the burial of those propositions in Missouri and California, and the cities who have tried them.

Will you not say at least that this subject is debatable, as to whether this sort of jurisdiction should be conferred upon municipalities, and will you not consent to the proposition, if debatable it certainly ought not to go into the Constitution of this State.

I submit to you, gentlemen, that it is an impossible situation. I could show you without reference to the history of the thing at all that there is nothing in it, and when I have shown, as I have shown, that this plan is unworkable everywhere, that the sentiment of this State is against this,

and that they have not even been able to get into the statutory law of the State, I think I have proved that it has no place in the Constitution whatever. I thank you. (Applause.)

CHAIRMAN GARRETT. Mr. Spaulding has a few words to add to his remarks of this morning.

Mr. SPAULDING. May I ask if Mr. Alschuler is in the room?

Mr. ALSCHULER. Yes, I am here.

Mr. SPAULDING. I wanted to get a copy of Mr. Alschuler's figures that he used.

Mr. BRANDON (Kane). Mr. Alschuler tells me that these figures represent an exact copy of the figures he used this morning. They are not the figures used, but a copy of them.

Mr. SPAULDING. If those are correct it would be certainly a mistake, because I never knew of any figures coming out of their office (Springfield Gas & Electric Co.) of the Springfield city plant but what were incorrect.

I do not believe that Mr. Alschuler would deliberately misrepresent, but I am surprised that a utility's attorney who is familiar with the allocation of accounts and the detail which is necessary to show accounts up in an intelligible way would bring these garbled figures in here and present them as meaning anything at all. He knows they do not mean anything.

Mr. BRANDON (Kane). I understood you to say this morning that this municipal plant in Springfield had been accumulated with the exception of $38,000 entirely from profits made by the plant?

Mr. SPAULDING. I should have modified that to this extent, that is the amount of tax money that was put in, and to the extent we are in debt; of course the plant is not all paid for. I do not know what the indebtedness at the end of this year is. Last year our bills payable were $24,314 and bills receivable $10,711. I think we will be owing something like 20 to $25,000 this year and that much of our plant value is not paid for; that is to say, we will have to pay for it out of the future earnings.

Mr. BRANDON (Kane). How much besides that did you owe on February 28, 1919?

Mr. SPAULDING. We owed customers deposits $5,784. That is a good deal more this year. That sum in the total of customers, deposits is misleading because it does not represent money which is deposited as security for service bills but represents money which was advanced for extending lines to customers' premises and which we pay back in service. That will be larger this year than last.

Mr. BRANDON (Kane). What else did you owe on February 28, 1919?

Mr. SPAULDING. I do not think of anything else.

Mr. BRANDON (Kane). The total of those would be about what at this time?

Mr. SPAULDING. About $30,000.

Mr. BRANDON (Kane). The total indebtedness of the light department on February 1, 1919, what was the plant worth at that time?

Mr. SPAULDING. $191,569.00.

Mr. BRANDON (Kane). You had $161,000 of net assets on February, 1919?

Mr. SPAULDING. Credit to that bills receivable, $10,000.

Mr. BRANDON (Kane). That would give you a net credit balance of $170,000. Do I understand you that with the exception of $30,000 that $170,000 has been made out of profits?

Mr. SPAULDING. Yes, but not entirely from commercial business. To go back into the history of the plant is quite a long story, but the original plant was built in 1894 and '95 and it was built in a rather unusual way; sixty citizens pledged their credit for $1,000 apiece as a protest against high rate to build a plant which was to be turned over to the city at any time that the earnings were sufficient to pay back that $60,000, and of course the operating expenses and a part of that contract was an agreement with the city to sell the city its street lighting. These were private citizens who put in the $60,000, making a contract to furnish the city with street lighting, agreeing that if ever the earnings were sufficient to pay

the interest and the principal and the operating expenses, the plant would then be turned over to the city. Now, after five years operation under that contract there had been additional money put into the plant by this company, bringing it up to a value of $80,000, but the earnings had been sufficient to pay back nearly all that money. There was a little balance of maybe a couple of hundred dollars which the city paid to clean up the account and take over the plant, so they got it for nothing; they got the street lighting for much less than before, and the plant donated to them.

Mr. BRANDON (Kane). Now, as I understand it the city treasurer of the City of Springfield keeps the books of the city, and the electric light account is simply an account on their books, which goes through the regular warrant system of the city?

Mr. SPAULDING. Yes, sir.

Mr. BRANDON (Kane). And the Commissioners make a report monthly showing the receipts credited to the electric light fund and the warrants drawn against the electric light fund?

Mr. SPAULDING. Yes, sir.

Mr. BRANDON (Kane). Did you compile the figures which you gave to the committee this morning from the books of the city or from some other books that you operated yourself?

Mr. SPAULDING. Those figures that you refer to which are made up by the treasurer have no relation to a profit and loss account whatever. It is income and outgo. If you are going to mix operating expenses with additions to the property, you do not get anywhere in the accounting system. No accountant would spend a moment's time considering such figures as that. I might say that those figures are not comparable at all, and any attempt to make comparison between those cash receipts and disbursements in a certain month would be confusing and misleading and would get you nowhere.

Mr. BRANDON (Kane). If the Commission of the City of Springfield issues a statement to its people saying there was received $5,000 for the electric light fund and there was paid out $6,000 for the electric light fund, are not we entitled to believe that is the truth?

Mr. SPAULDING. Yes, but the point I am getting at is, that that money which happened to be received in that month may have been earned last year, and money paid out that month may have been contracted last year, and may have been included in last year's balance sheet and in last year's financial statement.

Mr. BRANDON (Kane). Well, if I told you that the receipts in the paper that you had on the desk a moment ago and which Mr. Alschuler read from, run from the first day of March, 1916 to the 29th day of February, 1920, and the totals of what was received for those four years of the City of Springfield's electric light receipts and is the total of the city's electric light fund disbursements. Certainly you would have to agree in the period of four years one month being carried over to another would be absorbed, and the difference of $96,000 would of necessity need some explanation?

Mr. SPAULDING. I am not able to explain those figures. They are not comparable at all, and I know if an accountant would take the time to work that out he would find they were absolutely correct and did not prove anything irregular or any error in the regular accounting of the water and light department.

Mr. BRANDON (Kane). There emanates from the City of Springfield two sorts of pamphlets, one sort issued by the government itself, that is the monthly report of the Commission to its people.

Mr. SPAULDING. Yes, and this is issued by the government also; those are cash accounts and have nothing to do with the earnings of the property.

Mr. BRANDON (Kane). Do you think the Commission in the City of Springfield, over its signature of five Commissioners, of whom you are one, is putting out false statements as to the total receipts each month?

Mr. SPAULDING. I know they are not false statements, and I repeat it will require a careful analysis by the auditor to make any sort of adjust-

ment. I do think an auditor could make an adjustment between that cash account and this cost account.

Mr. BRANDON (Kane). If I tell you we have taken the monthly statement for four consecutive years and there is a difference of $96,000 between the statements issued in these pamphlets, labelled annual reports, between those and the total of the twelve months emanating from the Commission itself, you certainly would not argue the matter of carrying forward from one month to another would not be absorbed in four years?

Mr. SPAULDING. This discussion reminds me of a man trying to make a comparison between gas and water, so much a cubic foot for gas and so much for water, and he insisted on making a comparison between gas and water, and there is just as much relation between those cash accounts and the profit and loss accounts of the light department as there is between gas and water.

Mr. BRANDON (Kane). Which of these reports tell the truth?

Mr. SPAULDING. Both tell the truth.

Mr. WOODWARD (Cook). It seems to me the delegates here devoting their time this evening are not interested in any controversy that may exist between the private corporation and the Springfield plant itself, and I for one am unable to understand what benefit may be derived from this argument that is going on between the delegate from Kane county (Brandon) and Mr. Spaulding. In other words, I do not see how that is going to throw any light on what we are trying to get at, and I for one am going to leave this Convention hall unless there is something that will be of use to me in trying to arrive at a proper consideration of what I am to do on the subject matter that this committee has set for discussion.

Mr. BRANDON (Kane). This session of the Committee of the Whole was called for the purpose of considering municipal home rule, and the first speaker on this floor this morning, as the gentleman from Cook will fully appreciate, made an argument in favor of municipal home rule and coupled with it the statement of the successful operation of a public utility by the City of Springfield. He not only said then that a certain major proportion of its value had been created out of its profits but he said here within the last forty minutes, he accounted for $170,000 of net assets as having come from the profits of some one of three sources, with the exception of $30,000, which came from taxation of the people. It was contended by one of the other speakers that the actual assets of the municipal plant in Springfield are produced from taxation, and it was not right to say there was a successfully operated municipal electric light plant in Springfield. I insist that if we are going to give due credence, we have a right to know which gentleman told the truth, because if we are going to conclude that the Commissioner of Springfield made such a statement the delegates certainly have a right to know whether that statement is a fact. I have here an official report from the Commission of Springfield signed by all five Commissioners showing a discrepancy in four years of $96,000, and I insist the committee is entitled to know the truth of the statement made by the speaker this morning.

Mr. WOODWARD (Cook). All that has been stated by Mr. Brandon is true, but he overlooks the fact that Mr. Spaulding has admitted his inability to explain that discrepancy and he certainly doesn't expect any delegate to sit here until an expert accountant can clear up this apparent discrepancy.

Mr. BRANDON (Kane). I will say this, Mr. Chairman, if Mr. Spaulding is willing to put into this record his statement that when he said that the assets of this electric light plant in Springfield, all but $38,000 has come from profits, commercial profits of the operation of that plant, that that statement was in error, I am willing to cease, but so long as I think that is on our record, I think we should go to the truth of it.

Mr. SPAULDING. I never stated that all profits come out of the commercial earnings, because we have always had the street lighting business and the commercial business together.

Mr. BRANDON (Kane). I will say, Mr. Spaulding, I consider the selling of street lighting to the city as a commercial transaction the same as to any other customer.

Mr. HAMILL (Cook). I move this committee do now rise and report progress.

(Motion prevailed.)

(President Woodward presiding.)

Mr. GARRETT (Winnebago). Mr. President, I wish to report that the Committee of the Whole reports progress and asks leave to sit again.

(Report adopted.)

Mr. HAMILL (Cook). I move we adjourn.

(Motion prevailed.)

THE PRESIDENT. The Convention stands adjourned until next Wednesday morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Wednesday, April 7, A. D. 1920, at ten o'clock a. m.

WEDNESDAY, APRIL 7, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the chaplain, the Reverend Walter Aitken, pastor of the First Methodist Episcopal Church, Urbana, Illinois.

THE PRESIDENT. The Journal of March 30, 1920, was placed on the desks of the members of the last session of the Convention. The Journal of that date is now subject to correction. There being no corrections proposed, the Journal of March 30, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded under the order of special orders of the day, reports of Standing Committees, reports of select committees, introduction of proposals, first reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. Pursuant to the resolution heretofore adopted by the Convention, the Convention will now resolve itself into the Committee of the Whole for the purpose of a hearing on Proposal Number 232. The Chair designates Mr. Sneed, chairman of the Committee of Industrial Affairs and Labor, to act as chairman of the Committee of the Whole. Mr. Sneed will please take the Chair. (Applause.)

(Whereupon the Convention resolved itself into the Committee of the Whole, Chairman Sneed presiding.)

Mr. SNEED. The committee will please be in order. As stated by the President of the Convention, the hearing today is on Proposal Number 232. We have several representatives of the organized labor movement present with us today. The first speaker on our program is Mr. Angus W. Kerr, attorney for the Illinois Federation of Labor and United Mine Workers of America, of Illinois. Mr. Kerr is a lawyer of ability, a man who has had a varied experience in the labor world and with affairs in general. Gentlemen of the committee, I present Mr. Kerr.

Mr. KERR. Mr. Chairman, Gentlemen of the Committee: The proposal offered here upon the part of organized labor in Illinois is so great that I think the time might well be taken by reading it to you. It is Proposal Number 232. It is thought to put this into the Constitution to be submitted to the people under the distinctive head and title and article of "Labor," so that no matter what may be said later on it will distinctively relate to the right of labor in the future of Illinois.

Section 1 of this proposal provides the labor of a human being is an attribute of life and is not property. Section 2 provides "the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." Section 3 provides, "no court, tribunal, judge, nor any officer or official shall by any process, order, injunction, restraining order, decree or proclamation, abridge the right of any workman to quit any employment either singly or in concert, nor the right of by peaceful pursuasion, picketing, assemblage or the payment of strike benefits inducing others so to quit or to refrain from working, nor shall any such acts be made or held to be unlawful, or to constitute an unlawful conspiracy. Nor shall any such practice, order, injunction, restraining order, decree or proclamation interfere with the exercise of the legitimate functions of any organization formed for the purpose of advancing the interests of those who labor."

The proposal recited above is a statement of the constitutional or basic

rights of labor in Illinois. The delegates now in session in a Constitutional Convention are giving consideration to proposals supposedly eminating from responsible citizens or groups of citizens in the State. The only way in which the delegates may know what the people of the State generally desired to be submitted to them for ratification or rejection is to have responsible bodies or groups of the general citizenship make their ideals known. The banking interests of Illinois propose here, the corporate interests propose, the lawyers propose, the agricultural interests propose, the mining interests propose, and now labor, being a large proportion of our citizenship advance through its organization channels some principles of right and justice which they believe should become a part of the fundamental law of the State of Illinois.

Offering these items to be submitted to the State, they do so with the firm belief that labor as well as the other groups in our body politics, know something of the rights which must be preserved to them and know something of the wrongs under which they have suffered and which in the fundamental law must be secured again.

Upon reading labors' proposal, which I have just read, the average citizen who is not conversant with conditions existing in the industrial world will almost stand astounded at the request of labor. He will say to himself, Why should it be necessary for labor to have so truly as fundamental rights written into the Constitution? Has not labor always had these things it now asks, and one says advisedly, one who knows the situation, that he stands dumbfounded when he is told here these are the very things which have been denied to labor in the past. An analysis will be made of a proposal which is believed will convince that the right asked for in this proposal have been denied to labor and that their denials have been obstacles to the efforts of workmen to improve their intellect and condition in the human fabric. Is labor entitled to have this proposal in the new Constitution? To answer this inquiry one may go to other forms and jurisdictions to ascertain declarations upon the subject matter here involved, and going out of the recent war, as part of the Peace Conference there was a labor section to that Peace Conference, in which representatives of all countries involved took part, and those declarations go to the very items we propose here today. First, the guiding principle above mentioned, that labor should not be regarded merely as a commodity or article of commerce, and second, the right of association, meaning by that association the forming of labor trade and labor unions, if you will, for all lawful purposes by the employed as well as by the employer, is assured. The great men of the world who spoke for the several peoples during the war and since have proclaimed that a new light was to shine upon the right of labor, they having in war considered announcements stated this war was fought to establish and therefore maintain democracy; it has been stated by great leaders that this state of democracy was to be carried into every avenue and activity of life; that there should be political democracy, that henceforth there must also be industrial democracy and democracy in industry, and particularly in American industry.

It has been stated so repeatedly and so strongly here by those who speak the outpourings of the heart and conscience of the great American people that there should be in fact real democracy in the industrial life of this great republic of ours that the industrial autocrat must be eliminated as well as the political autocrat. The proposal above which I have read to you as the official endorsement has the official endorsement of the Illinois State Federation of Labor, the one organization that has a right to speak for labor in this State, as has agricultural societies and others to speak for the agricultural interests, and has manufacturing associations or any other kindred associations the right to speak for their class and their kind. As I say, this has the official endorsement of the State Federation of Labor, and all the other organizations of labor in the State not affiliated in that organization, which includes the Railway Organizations; therefore complete and full endorsement of all kinds of labor in the State of Illinois, it has the endorsement and hearty approval of the American Federation of Labor,

that wonderful organization which has done so much to build up the physical and mental morale of the citizens of America, present and future; the organization whose forward looking ideals embrace the belief that the future of this republic is assured in proportion to the development of its men, women and children, much more than in the development of mere property rights. Practically all the American statesmen have endorsed the thought contained in this proposal; many of the great industrial leaders, leaders of the employers side have acknowledged the right and justice alike in those ideals. Mr. Stephen S. Gregory, former President of the Bar Association, also a lawyer of standing probity, has this to say of the injunction question in America; let me say that he is a lawyer who has given this much attention, who has represented not workers' organizations nor individual workers generally, but plans coming from the employing class: "I think probably that the provision of the Clayton Act in that respect, if closely followed in the State and made effective would be about as good as anything we could get." You will see the significance of the statement of Mr. Gregory when I analyze this proposal to show you changes in law about the Act of Congress of the United States made in the labor section in the Clayton Act. The law as stated in this proposal has been in effect in England since the passage of the Trades Dispute Act in 1906, and has been in effcet in our country in Federal jurisdiction since the passage of the labor section of the Clayton Act in 1914. This shows the reaching out of the judiciary for legislative power not conferred upon it. The earliest attempt of the English judges to reach out into industrial disputes was in the famous case entitled "The Tubwomen vs. The Brewers of London," decided in 1721; from the date of this early case, and by the way that was not an injunction case, was an attempt to punish for conspiracy—from the early date of this case the courts have constantly reached out to limit the endeavors of labor to combine and organize into labor unions in order to use their own weapons, labor's weapons, of collecting and combining strength to secure improved working conditions.

The American courts did not start until about 1814 in these efforts to reach into the industrial controversy and field; in the case of the People vs. Meldon, decided in New York in 1810, and the People vs. Trequier, decided in 1823, the holdings were to the effect that a combination among workmen to increase his wages is a conspiracy.

A close reading of the cases would not bear out this construction, but nevertheless from that day to this there has been a reaching out upon the part of the court through the injunction and the subsequent punishment by attempt to hamper many legitimate and normal functions of organizations formed by workmen for bargaining purposes. In England this legislation earlier took form in 1825 by the Act of George IV. of acts prohibiting combinations of employers of workmen was repealed; that back in 1825 an act prohibiting the organization of the employing side or the employers was repealed, giving official sanction, at least by permission to organize upon both sides, and as early as 1871, by the passage of the Trade Union Act, the forming of labor unions was expressly authorized in Great Britain.

It will thus be seen that we are engaged in no different struggle than that of other countries; these questions only have arisen as countries grow in industrial activity and importance, the questions grow in significance as the form of the industrial relations change. They were of no moment comparatively where the employer and employee worked side by side, where the hired man lived with and in the family of the employer; where the employer was as careful and solicitous of the health of the hired man as he was for a member of his own family. Relations have changed. With no different attitude perhaps in the mind of the employer he gradually lost the personal contact and therefore the personal interest. In the industrial countries of Great Britain and the United States, there developed shocking conditions in the lives of labor; diseases, hunger, ignorance was rampant in the highest industrial life centers; it threatened for a time to bring the masses of our citizenship into a condition of physical, moral and intellectual life they would not only be a menace but a disgrace to civilization; out of this condition, as perhaps it is ordained always there arose here and there

leaders and thinkers of and for their people and class. Many of these men were called agitators, but if that be their title then it is a worthy one, for those men builded up of those early efforts those wonderful organizations of labor which have changed and have done more in America to make for the type of independent citizenship, individually and collectively, rather than a dependent one. From this protest against wealth and hunger and enslaved physical and mental life there arose and grew labor unions. No American citizen of any standing today will deny that the great institution of organized labor has not only been a distinct advantage to the workers of America but that it also has been a distinctive aid to the nations in formulating and developing a higher type of individual citizenship. This has been a country of organization; labor, political, religious and fraternal societies have freely formed, and who will but admit to the good of our people? Lawyers have organized; capital has organized; now it is incumbent upon us, as we view it to see that the efforts of labor alone shall not be restrained, shall not be limited, shall not be improperly circumscribed by the judiciary of Illinois through acts and usurpation of authority. It is therefore insisted by labor that this proposal go into the Constitution for submission to the voters. It is by labor that as it is proposed to create the judiciary of Illinois in and by the Constitution, that also in the Constitution there shall be written certain fundamental basic rights of labor which shall not and cannot thereafter be infringed, impaired or invaded by courts so constituted. No intelligent man with the knowledge of abusive have crept in through these invasions in the past. Hardly a man but will admit that the use of the injunction in industrial disputes have practically always been directed against the workmen; it has been used to cripple his organization. They have been used to cripple his organization; they have been used for strike-breaking weapons; they have been used to break down the morale of the men engaged in an effort to better their condition; they have been used to break their strikes, labor's last resort on refusal to render work under bad conditions.

It is here proper to suggest the very potent legal reasons for including this in the Constitution. The Federal judiciary system is, with the exception of the Supreme Court, created by Act of Congress, and in the Federal jurisdiction it was therefore proper for Congress to limit and circumscribe the activities of its own creates, namely, the Federal judiciary. Under the present State Constitution of Illinois and under the proposals before this Convention the judiciary of Illinois is to be created in and by the Constitution, and it is therefore a legal necessity which compels labor to come before this Convention to show that in the instrumentality creating these things there shall also be a declaration limiting their power in these matters. This, in passing, is not the first time in our history that because of changing industrial conditions it becomes necessary to curb and change the rules laid down by courts and judges; as all in the Convention will know and remember that the defenses in personal injury cases as contributory negligence, assumption of risk and the negligence of fellow servants are purely court-made laws, without legislative sanction. No Constitution, no State legislature has ever said that the employer was entitled to these defenses in personal injury accidents. The court in that field reached out and made these defenses. Now, the legislatures of thirty-five States in this great land of ours, out of forty-eight, have not hesitated to say to the courts in their respective States that hereafter the court shall not be permitted to invoke any of these defenses against injured workmen, or the beneficiaries of workmen who have been killed in industrial life, and so legislatures have nowhere hesitated to say to the court, "Your arm has stretched out far enough, it must be stopped." This request cannot be put aside by the statement that this may be an attack upon the integrity of our judges or our courts as now constituted, nor by the statement that the people may be depended upon to elect men who will not be guilty of those abuses. All this line of argument has been gone over time and time again. The political parties of our country and the great men of this time in our country have all declared against government by injunction, have declared against the extreme power claimed by the judicial officers; the power of the judge should

be declared by the legislative branch of the goverment, and the Constitution is the highest type of legislation we know of in this State.

Those who know injunctions know that they are declared to be the law of the land when established; that they abrogate, create and declare law. That violation of that judge-made law has involved penalties resulting in imprisonment, and that too without the intervention of a jury, so that no time need be wasted upon that feature. The fact that the Congress of the United States by overwhelming vote did not hesitate to say to the courts created and established by the Congress that they should in the future be limited and restricted in their powers in this regard. Now, what is it that labor is asking in this proposal? Let's analyze it. The request for this legislation cannot be answered by saying that it is a detail and not basic; that the Constitution created these courts in Illinois and that you therefore should go into the legislature and say we want these wrongs safeguarded against; if that were done you would undoubtedly be met with the argument that the Constitution having established the courts, the legislature will be powerless to limit them in any of their activities. To place labor in this position is to fly in the face of history. Labor asks here that there be submitted to the people of this State the law which will say to the courts created by that law you shall not strip labor bare and compel it to fight single-handed as isolated individuals against combined capital to maintain greed and build up your rights. It is not an answer to our proposal to say that we now have upon the books laws which protect labor and courts to enforce them; that all we need is law under which our respective rights may be protected and secured and wrongs redressed; we need as well opportunity, power and strength in those courts to secure those rights and redress those wrongs. What is that power with labor? Is there a thinking citizen who will say today for instance that the individual single workman, perhaps with a family, a wife and little children depending upon him has equal bargaining power with combined employers? That when he sits across the table from this highly organized employer that he deals upon an equality? In that situation that there is really freedom of contract? The industrial history of the world shows that there is only one way to give equality of the bargaining power to the workman, and that is to give them the same right the employer has always insisted upon, and that is the right to organize and deal collectively and to speak through chosen representatives.

When the members of this Convention take these proposals into the conference room and analyze them they will see they are directed only to safeguarding the privilege of building up those labor union organizations in a manner which will allow the individual workman to act with his fellows who are like situated, and that is the only purpose of all these proposals, to give to labor the same opportunity that other groups in this State have had. Why does labor organize? To better the condition of the individual laborer only? No, there is no such selfish motive, but to better the condition of his fellows, to have better nourished wives and children in order that the citizenship of this land may be upon a higher and stronger plane. This proposal seeks to present an attack upon that effort, to say to legislators, judges and administrators of the law that you shall not hamper the efforts of those men to make of themselves and their children better men physically, morally and mentally. We say that the man today is blind that would compel the workmen of America to accept the conditions imposed upon labor which may be offered by the employer, no matter how human that employer may be, that such a viewpoint speaks and smacks at paternalism, or autocracy, if you please; it does not speak for democracy, it does not speak for equal bargaining powers. Labor's crying demand today is for a voice in determining the conditions under which it works. Labor says, give us a voice in naming our wages, our hours of employment, our working conditions and our social status, if you will, without that voice the single employee stamps supplicant pleading for that measure of justice which the employer may say is fair. The mere assertion of such a situation stands as unfairness, because you would have as many standards of fairness in working conditions as there are employers in the country.

Surely, labor does not ask too much when it asks in this great democracy that it be given equal bargaining powers with the employer, that unhampered it be given the right to build up its organization.

Now, some may say that the courts of this State have declared for the right to organize, but the courts of this State have also stated that labor is property, that the labor of a human being is property, and the judges who issue injunctions issue them on the theory that labor is property, and they issue them and thereafter conduct the proceedings under such injunctions upon the theory that labor is property. When the normal activities, the generally accepted methods of conducting an organization of workmen are interfered with the right of organization means nothing; if one workman may not go out and persuade another workman as to the right method of building up his bargaining power the right of workmen to organize barely stated means nothing, and their right to organize means nothing if the right is denied to accumulate funds to be used by the strikers when they quit employment collectively; by that is meant the payment of strike benefits. Now, let us be more specific and briefly analyze this proposal, and I think I have only a short time further.

What we ask is that labor in Illinois shall not be treated as property; the courts have held that labor is property. Surely the sovereign people have the right to say that is not so in Illinois. Surely that question was finally decided in the great internal strife of 1861-5, and this notwithstanding the decision of the courts.

I want to quote from a man whom I deem an eminent American, Samuel Gompers, the President of the American Federation of Labor; the man who saw in this great republic of ours the western opportunity for the advancement of civilization and elevating the plane upon which mankind in the future should live. "The right to work is a personal right; the labor of a human being cannot be a commodity or article of commerce; human labor produces articles and commodities; the attribute itself is personal and a part of the human life of the work." I quote from the same distinguished gentleman again: "It is a most serious mistake for courts to follow blindly precedents; the result of that habit has been to dehumanize law and make so-called justice secured at the hands of courts something strangely at variance with the facts and proposals of the industrial world in which men work and live; and furthermore: the wage earners of this country cannot afford to compromise the fundamental principles which is the basis of their contention in seeking litigation to establish, accomplish and assure human liberty and the rights of wage earners."

As President Wilson in talking of the dedication of the American Federation of Labor Building in Washington said: "If judges had not learned the simple lesson in the primer of human liberty that the labor of a human being is not an article of commerce the primer will be left open for them and they will be compelled to learn."

Section 2 of this proposal is, "The right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." That declaration I have just read was made many years ago in Great Brtiain, and gives them the right to deal and to speak through representatives chosen by themselves. Labor says as to this that without that the great mass of workmen would sink into an existence of dependency and would have to take what was handed by his employers, the bargaining power and ability is stripped from him. While the right is fundamental law, we want to say to every administrator in Illinois and to every legislator and to every judge hereafter in Illinois that question shall not be open to dispute.

Section 3 of this proposal and the last proposes to do this with reference to the injunction question: those injunction writs or proclamation, temporary or permanent, by whatever officer issued, shall never do what? Abridge the right of workmen to quit any employment singly or in concert.

Second, abridge the right of peaceful persuasion so to do, and induce others to do likewise, nor to abridge the right of peaceful picketing, which is peaceful persuasion, and the right to speak freely upon common interests.

Fourth, abridge the right of peaceful assembly, free speech, if you will, in order that they may communicate their hopes and aspirations to others like situated.

Fifth, interfering with the payment of strike benefits, which are small sums paid out of hard earnings of these men to prepare them for collective quitting of jobs to secure better conditions.

Sixth, And it is declared in this proposal that neither of these peaceful acts, these lawful acts which have been conceded to every other group in our American citizenship shall ever be declared to be null and void or to constitute unlawful conspiracy.

Seventh, And it is said in this same section that none of these practices shall be permitted to interfere with the normal functions of the organization of workers formed to advance their common interests.

I suppose there are men in this Convention who immediately inquire of themselves, Have any of those things been denied to labor, and we answer from a world of experience, yes, and they have been denied, gentlemen of this committee, by the laws of the State of Illinois, not under any constitutional provisions of this State, but by the judges in the reaching-out process in these injunctions; judges by their injunctions make therefor and declare what is the law, and they announce, as I have heard it many times that when this injunction goes out, it becomes the law of the land, whether the injunction be absolutely void or not, strict obedience must follow it until perhaps two or three years thereafter it may be declared void by a subsequent court; by that time the harm is done to the building up of these organizations; then prosecutions for contempt follow, and in the great State of Illinois, or there is not a lawyer in this Convention no matter how learned in the law who might advise a workman, striking and quitting work organizing to better his conditions who happened to step over the bounds of one of those injunctions—I say there is no lawyer in the Convention who may tell the workman how long that judge may send him to jail. I say it is my considered opinion that there is no limitation to the length of time a judge may incarcerate that workman. Labor asks for the right to conduct its organization without being constantly hampered with these writs. Employers of America have been permitted to organize, capital has been permitted to organize, and labor wants to be allowed to organize and not to be hampered by the writ of a judge, and the practicing lawyers in this body know these writs are prepared in the office of the attorney representing the corporate interests involved.

Labor is against the charge that this is an attack upon the court. The injunction as originally conceived issued by the English Chancellor for the purpose of restraining actions which would result in irreparable injury to property, not to human rights. It never was intended that the writ of injunction human affairs and human life, nor order human life. So we say this is an attempt to stop the courts of Illinois from extending their arms too far. The man has his hearing dulled who has not heard the cry of labor against the abuses of the injunction writ, and few men will arise and say that there is not justice in that cry. It is the habit of coropration representatives to cry that this is an attack upon the courts. There is not one phrase in this whole proposition which limits the absolute power and authority of any judge or court in this State or that interferes with the decorum and orderly practices of the court and its dignity. This is not directed at the prohibition of prosecution for contempt of court. It is directed to secure limitations upon the powers of judges to create statutes and law in the nature of decrees and thereafter punish for contempt actions; it does not seek in a single instance to the contempt of either the person of the court or the judge himself.

Labor has never been guilty—and I want to say this here because the usual method of attack made by the employer on this proposal is that it is an attack upon the courts—labor has never been guilty of saying to the courts of Illinois what the manufacturers have said, and I quote from the Manufacturers' Journal, Volume XV, dated April 17, 1919: "Of all the

ridiculous decisions handed by the Supreme Court of Illinois those which it seems to us to be the most absurd has had to do with the assessment of capital stock. We think it has been sometime since the Supreme Court enjoyed the distinction of having more than two good lawyers among its members at the same time. But however this may be, capital stock litigation in Illinois stands out as conspicuously as a trick mule and a clown in a one-ring circus, and the court has turned just as many somersaults as it could without breaking its neck." And yet we are charged as a defense to this proposal that it is an attack upon the decorum and the dignity of the judges of the courts of Illinois. This is only quoted to show it does not lie in the mark of those who oppose those measures to charge labor in that way.

Gentlemen of the committee, that is all I have to say. I have here a declaration of many bodies in favor of this proposal, but I do not wish to read them all. The industrial conference just closed its labors, recently appointed by the President, declaring for this class of legislation. The church official of the great Methodist Church in America and the Bishop speaking for the Catholic Church in America have all declared for this, and I beseech therefore for this proposal your candid and careful consideration. I thank you. (Applause.)

Mr. MIGHELL (Kane). Mr. Kerr, I see in section 3 of this proposal you are presenting the use of the word "any" quite frequently, "the right of any workmen to quit any employment." Do I understand you that the Illinois State Federation of Labor in proposing this section to this Convention for adoption intends to include in that expression, "any workmen," public employees, such as policemen and firemen?

Mr. KERR. Policemen and firemen and public employees in our judgment have the same right to speak and act collectively as other workmen do, and if our communities do not deal with them in that respect they can expect only the right to quit.

Mr. MIGHELL (Kane). The right to quit in concert?

Mr. KERR. In concert, if there is no bargaining power conceded to those men.

Mr. MIGHELL (Kane). Let me assume a situation for a question which I wish to ask you: Suppose it is in the middle of winter, and a general coal strike is on; men, women and children are dying for lack of fuel; at the same time there is a railroad strike called and foods are shut off so that people of this State are starving to death; what remedy would you suggest for the general public?

Mr. KERR. No man has ever announced in American industrial life that the grocer or other merchant must furnish the commodity or property he deals in at a given price, and no man in America has the right to say that labor must give its services for a particular price. The ultimate answer, if I may be permitted to proceed in regard to the coal strike, it is sufficient to show the attitude when labor is organized—it will only take me just a moment—that the injunction is always directed against labor, and not the coal strike situation. The Secretary of Labor is a statutory mediator, conciliator only, not an arbitrator; the Coal Miners' Organization and Coal Operators' Association submit their differences to Mr. Wilson in the assumed position of an arbitrator; the decision is made which will save freezing and keep the industrial wheels of America going; labor accepts the situation, but the employer refuses to accept it, and the arm of the chancellor or judge goes out with his injunction to whom? Labor, who have accepted the proposal to save the country from freezing. That is my notion, and I think perhaps it is the knowledge of the Convention on that subject.

Mr. MIGHELL (Kane). I don't think you have answered my question. I will ask the reporter to read it.

(Reporter reads Mr. Mighell's question.)

Mr. KERR. I suggest the passage of just such laws as this, which will permit the organization of every workman in the country, and when you

give to workmen the power and the right, you place upon their shoulders a responsibility which has to yield to such a situation. I think that very frankly is the remedy for the situation.

Mr. MIGHELL (Kane). Do you think we should turn over to any one particular class of the community the right to shut off the necessities of life that the community must have in order to live? Will not that be turning over the government to a particular class or minority?

Mr. KERR. No, but you have no right to ask for the personal service, a part of human life itself which you do not ask of property in America. You never have asked that of property except in emergencies; you have no right to ask of labor, that is a part of human life itself which you do not ask of property.

Mr. MIGHELL (Kane). Cannot some method be provided, Mr. Kerr, whereby this controversy between capital and labor and the general public can be adjusted without putting the public to the point of death?

Mr. KERR. I would think that all the efforts of my life had been misspent if I did not think that there was a chance.

Mr. MIGHELL (Kane). What is that remedy?

Mr. KERR. And I say in all of the countries and in the State of Illinois in the industries where there has been a complete organization on both sides you have not had that trouble.

Mr. MIGHELL (Kane). What is the situation here in Illinois today, would you stand for the public being frozen to death, or starved; we are not completely organized; what would you be in favor of doing right now in case that situation arose which I indicated in my question?

Mr. KERR. In Illinois no such situation is presented from the necessities of the case. Labor sometimes does not always stay with its contract; sometimes necessity requires a higher living wage—and we have the great industrial corporations of Illinois. Your public service corporations have made their contracts with the municipalities and have as frequently broken them as has the labor organization broken its contract.

Mr. MIGHELL (Kane). I am not attempting to defend employers or to defend employees; both, according to the Federal Grand Jury, are conspiring against the public; I would like to know what remedy you have to protect the public; I do not care to make any case for the employer.

Mr. KERR. I have stated very frankly in my whole life that the remedy for a situation of that kind is a complete organization upon both sides, a complete organization, and then labor and the employer must take the responsibility upon their shoulders.

Mr. MIGHELL (Kane). But is the public a party to that organization? Let labor be organized, let manufacturers or business men be organized, where does the public come in? There are three parties to this proposition, as I see it.

Mr. KERR. It is always strange to me, and I say this with no offense, that these questions of the public being interested are only raised when it comes to getting compensation for the labor of a human being; no man has ever advanced the thought that the public has the right to say how much the farmer shall sell his wheat for, except in war times, or what the grocer must sell his stuff for.

Mr. REVELL (Cook). I am quite sure, Mr. Kerr, that none of us approach these matters offensively.

Mr. KERR. Surely, I hope not.

Mr. REVELL (Cook). You will concede that to be a fact, will you?

Mr. KERR. I dare say from your appearance, although I am not acquainted with you. (Laughter.)

Mr. REVELL (Cook). We are here approaching these matters with an open mind, and we ask some questions in order that there might be some light shed upon these matters when it comes up for consideration in the committee. I would like to ask you, Mr. Kerr, do you consider all strikes just ones?

Mr. KERR. I do not know.

Mr. REVELL (Cook). You do not know?

Mr. KERR. No, I do not know.

Mr. REVELL (Cook). You do know in this proposal you are asking that an almost absolute prohibition be made against the people through the people's court against doing anything at any time, under any circumstances in connection with strikes, walk-outs, the quitting, etc.

Mr. KERR. I was going to answer your question; I do not know that all strikes are good ones, but what I do say, that the right to quit work cannot be passed upon in that measure, any more than I should part with my jacknife if I didn't see fit.

Mr. REVELL (Cook). But you do admit, do you not, that even if you do not consider labor as property, that still property has a right to protection?

Mr. KERR. I have not said that; there is no one that will go as far as I will to protect property rights, but I do not want the property rights constantly protected in Illinois, and the rights of labor unprotected.

Mr. REVELL (Cook). Then that leads me to this question: What would you do in an instance like this, where there is a strike, the employer has no part in that strike except to be a buffer between two or more labor unions, not calling for more pay, not calling for less number of hours, but a contest between two or more unions and the men are called out; how would you proceed to protect then the property which is represented by that employer under your bill?

Mr. KERR. There is nothing, there is not a syllable, not even a wink in this proposal which does not guarantee the protection of property. These things are directed to the right of a human being to quit work when he sees fit. There is not a line in this to prevent a man's properties from being protected.

Mr. REVELL (Cook). You do not seem to have thought much of the other side of the question.

Mr. KERR. Which side?

Mr. REVELL (Cook). The side of the employer. His property must be protected in some way and his rights to do business must be protected, and yet some unions have struck and abandoned his property and quit work. How is that man to be protected, if there are no other means, some means by which he can call other power to assist him?

Mr. KERR. You do not mean to say that there should be a law which require a man to stay at his task?

Mr. REVELL (Cook). Not at all.

Mr. KERR. That he must never quit his task?

Mr. REVELL (Cook). But there should be some power, should there not, because the employer has done nothing, and yet his factory or his property may remain idle for a year or two.

Mr. KERR. The right to quit exists in those men; if they wish to quit, they quit that is all.

Mr. REVELL (Cook). I notice that you put the word "responsible" and "responsibility" quite a number of times in your remarks; you especially refer to responsibility in connection with proposals brought in here by parties who were responsible, we will assume industrial and utility corporations were responsible—you also use the word in connection with the body which you are representing. Will you kindly illustrate that just a little to us wherein the responsibility comes in connection with your organization?

Mr. KERR. Only this responsibility, that I assume a Constitutional Convention wants to submit to the body politics of Illinois proposals which meet their judgment; we are all representatives in character; you are representing your constituency you hope to speak their minds in writing a Constitution, and I say the only way you can know what the responsible groups of citizenship want put in this Constitution is by listening to them.

Mr. HAMILL (Cook). I assume what is meant by Section 1, "the labor of a human being is an attribute of life"—is that it is something which is inherent and sacred to life in such a sense that it ought not to be taken away by law or by any other practice. Am I correct, do you so interpret it?

Mr. KERR. It is part of life itself. Labor produces property, it is not the property, it is a part of life; that means, I suppose, it is part and parcel of the life of a human being.

Mr. HAMILL (Cook). This Section 1 starts off with a generalization, that the labor of a human being is an attribute of life and that it is not property. I assume its purpose is to indicate that the right of an individual to labor is so inherent in him and so much a part of his inherent right that he cannot lawfully be deprived of it.

Mr. KERR. I think that is a fair statement, likely.

Mr. HAMILL (Cook). Would it be acceptable to you and those whom you represent to make Section One read like this: "The labor of a human being is an attribute of life, and the right of every man or woman to work upon terms acceptable to him or her, and his or her employer in any gainful occupation not forbidden by law is hereby guaranteed."

Mr. KERR. The trouble with that is, so many of our decisions have proceeded upon the theory in dealing with these industrial disputes that labor was property just the same as the piece of machinery in the mill. Now, you don't cover that; I think perhaps a careful analysis would change it.

Mr. HAMILL (Cook). Suppose that we leave in the words "And is not property," suppose that it reads this way: "The labor of a human being is an attribute of life and is not property, and the right of every man or woman to work upon terms acceptable to him or her, and his or her employer in any gainful occupation not forbidden by law, is hereby guaranteed," would that be acceptable to you and those you represent?

Mr. KERR. I really do not see so much the matter with that, but I would want to give it consideration, of course.

Mr. HAMILL (Cook). You spoke of judge-made laws; I assume you are a lawyer, Mr. Kerr.

Mr. KERR. I am an attorney, whether I am a lawyer I cannot say.

Mr. HAMILL (Cook). You are familiar with the distinction between common law crimes and statutory crimes?

Mr. KERR. Yes.

Mr. HAMILL (Cook). Just tell us in a word what the distinction is.

Mr. KERR. A common law crime is one that has grown up from an interpretation of the will of the people of that community by a Judge; a statutory crime is one defined by the legislature or law making power.

Mr. HAMILL (Cook). What is true on the criminal side of the Court's jurisdiction is also true on the civil side, is it not, that a great many rights, indeed most of our rights exists in what we call the common law rather than the statutory law.

Mr. KERR. Surely. If I don't interrupt you these early English cases which I gave you were exactly what I claim for them, the reaching out in the common law field which later developed into the chancery side of the Court.

Mr. HAMILL (Cook). And all the chancery practice developed by the attempt of a Chancellor to express what was in the minds of the people?

Mr. KERR. Yes.

Mr. HAMILL (Cook). And the injunctions that you spoke of are just that sort, are they not?

Mr. KERR. No.

Mr. HAMILL (Cook). In what respect was there any difference?

Mr. KERR. The original jurisdiction was not to declare the law, it was to sucure against the destruction of what might be an irreparable injury to property.

Mr. HAMILL (Cook). It was not authorized by Statute, was it?

Mr. KERR. No, sir, it is now authorized by Statute in this State.

Mr. HAMILL (Cook). But originally it was purely the creature of the Court?

Mr. KERR. Yes, as most thinge were. The injunction was to preserve property rights. The first injunction they issued was issued by the landlord against the tenant, because the tenant proposed to put the axe to a valuable tree that it would take years to grow up again. Now, under the common law system in England the value of that tree after it was chopped down was only the value of the wood in the tree; the landlord said, "I have a right

to be protected against this irreparable injury, this waste," and the Chancellor said "Yes."

Mr. HAMILL (Cook). I think we all understand the distinction you seek to draw between property rights and the rights of the individual; I was asking in what respect one right is any more judge-made than the other when they are both issued without statutory authority.

Mr. KERR. Well, there is not a great difference there, except that injunction originally was to command a party to a law suit to desist from certain acts, connected with that law suit; now, in the labor field they have reached out and they take the place of your statutory law, they enlarge upon your statutory law, and we all know that.

Mr. HAMILL (Cook). I understood you to say in the course of your very interesting remarks that our Courts had held that labor is property. Will you give me a citation holding that?

Mr. KERR. Yes, I will be glad to do so from perhaps the best Courts we have in the country.

Mr. HAMILL (Cook). I am speaking of Illinois Courts.

Mr. KERR. I have not a decision here from the Illinois Court.

Mr. HAMILL (Cook). There is not a decision of the Illinois Courts that you know of holding that way.

Mr. KERR. Indeed there is; there is a decision by an Illinois Court in the case of Barnes vs. The Typographical Union, in the 232 Ill.

Mr. HAMILL (Cook). Will you turn to the page in the case where the Judge says that labor is property?

Mr. KERR. The injunction was issued upon the theory that labor is property; while it does not specifically say so, all injunctions in Illinois are issued upon that theory.

Mr. HAMILL (Cook). They are issued on the theory that the activities of the people against whom the injunction runs threaten property rights, is not that the theory?

Mr. KERR. No; they restrain against assault and battery that your statutes cover and they punish without a jury trial, and thew may send in Illinois today a man to the county jail for an unlimited time for an act which has no relation to property at all.

Mr. HAMILL (Cook). You are speaking for the Illinois State Federation of Labor?

Mr. KERR. Yes. sir.

Mr. HAMILL (Cook). Can you give us an indication of the number of its membership?

Mr. KERR. I would say there is organized in Illinois——

Mr. HAMILL (Cook). My question is, how many persons are there in the Illinois State Federation of Labor?

Mr. KERR. Three hundred fifty to four hundred thousand.

Mr. HAMILL (Cook). And they are pretty well organized?

Mr. KERR. The Illinois State Federation of Labor has a paper organization; it represents in this capacity all the organizations affiliated with it; there are many of those, like the Railroad Brotherhood in Illinois, for instance, who have not seen fit to pay the small per capita tax to the Federation.

Mr. HAMILL (Cook). And so they are not affiliated?

Mr. KERR. No.

Mr. HAMILL (Cook). But there are unions of a membership of somewhere between three hundred fifty to four hundred thousand affiliated with the Illinois Federation of Labor.

Mr. KERR. Yes, I would say so, but I cannot be accurate about that.

Mr. HAMILL (Cook). Will you tell us what you had in mind when speaking for this organization of some three hundred fifty to four hundred thousand men, you spoke of the laborer in his isolated capacity.

Mr. KERR. If I used that term, I did not mean it; what I meant is that to my mind, to leave the individual laboring man to drive his own bargain in this highly organized industrial life in America is unfair from their standpoint.

Mr. HAMILL (Cook). In section 2 of this proposal you say "The right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." You are speaking for them here this morning, are you not?

Mr. KERR. Yes, sir.

Mr. HAMILL (Cook). And your right to speak is not abridged?

Mr. KERR. No, sir, I hope not.

Mr. HAMILL (Cook). Has it ever been?

Mr. KERR. Oh, indeed yes.

Mr. HAMILL (Cook). When and where?

Mr. KERR. Do you want me to go into the many places——

Mr. HAMILL (Cook). One or two instances will do.

Mr. KERR. I can tell you of situations where the minority is denied the right to speak at meetings, where the right of free assembly and persuasion has been denied repeatedly in this State and in many states.

Mr. HAMILL (Cook). You are putting in two different things. Where has the right of peaceable assembly been denied?

Mr. KERR. At Roseclair in Hardin county, where the officials of the State imported gunmen into that town and the president of the great Federation of Labor was denied the priviledge of remaining in town.

Mr. HAMILL (Cook). There had been disturbances of the peace there?

Mr. KERR. Not a single disturbance. Afterwards, there was, where the gunmen employed by the companies fired into the men in a boat in the river.

Mr. HAMILL (Cook). Do you understand in this section two, in giving the right to speak through representations to men that employers would be obliged to deal with a union representative and forbidden the right to deal with individuals?

Mr. KERR. No.

Mr. HAMILL (Cook). This refers only to speaking generally and not necessarily in dealing with the employers.

Mr. KERR. That goes into a long subject that I am not going to take the time to discuss; one of the controversies here is, shall we have the shop committee, the plant committee, the committee representing the employees out of the employees themselves, the claim of labor being that that restricts their activities and they shall have the right to select their own attorney, if you will, in that plant.

Mr. HAMILL (Cook). And this section two is intended to guarantee that right.

Mr. KERR. Absolutely, that is my thought, at least.

Mr. HAMILL (Cook). And to employ their own attorney for the purpose of dealing with the employer.

Mr. KERR. Yes.

Mr. HAMILL (Cook). By attorney you mean their own agent or spokesman?

Mr. KERR. Yes.

Mr. HAMILL (Cook). What would the situation be under this section two if the employer preferred not to deal with the outside man?

Mr. KERR. Then, you don't have your recognition of the right to organize, it is not fair, and the men quit.

Mr. HAMILL (Cook). The effect would be to compel the employer to deal with the representative of labor.

Mr. KERR. Not a line to that point, but these men have a right to quit, have the right to speak, and that shall never be claimed to be a conspiracy or unlawful; that is a mere declaration of the right of workmen to organize and speak through representatives.

Mr. HAMILL (Cook). And that right exists now.

Mr. KERR. Where organized labor is conceded the right and employers deal with them, yes.

Mr. HAMILL (Cook). The right of labor to organize and choose their own officers and the right of their officers to speak to anybody who is willing to speak of them is now recognized in Illinois, is it not?

Mr. KERR. I would not say so. You have plants in Illinois taking the position now—I do not want to name individuals of course——

Mr. HAMILL (Cook). You and I misunderstand each other.

Mr. KERR. Likely.

Mr. HAMILL (Cook). The right of the laboring man to organize, to choose his own spokesmen, the right of that spokesman to speak to anybody who is willing to speak to him is now recognized in Illinois, is it not?

Mr. KERR. Oh, my, indeed no; we have conflicts every day where the employer denies the right of his men to even carry a union card and not to speak through chosen representatives or other representatives.

Mr. HAMILL (Cook). Those men who are not allowed to have a union card have the right to go into some other employment, of course.

Mr. KERR. Exactly, and if they have a union card they have a right to.

Mr. HAMILL (Cook). The effect of this section would be to compel every employer to have only union men.

Mr. KERR. No, sir.

Mr. HAMILL (Cook). I do not understand, will you explain.

Mr. KERR. The right of workmen to organize—and I have said workmen—into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged.

Mr. HAMILL (Cook). Speak to whom?

Mr. KERR. To whoever cares to speak with that organization, that is all.

Mr. HAMILL (Cook). Then it does not guarantee it the right to speak with one who does not care to speak to it.

Mr. KERR. I think not.

Mr. HAMILL (Cook). What would the situation be where the employer would decline to talk to the representatives?

Mr. KERR. Then yau have your strike, your cessation of work.

Mr. HAMILL (Cook). That is the situation now, isn't it?

Mr. KERR. Yes. sir.

Mr. HAMILL (Cook). Would this change the present situation?

Mr. KERR. It would be an emphatic declaration—I am getting your point, perhaps I have been doubtful about it—we would have the emphatic declaration of the people of the State of Illinois that that principle shall become a recognized principle in industrial life in Illinois.

Mr. HAMILL (Cook). Then this would be a construction of the doctrine of the State of Illinois that employers must deal with the representatives of their laborers.

Mr. KERR. I think not, that is my opinion of it.

Mr. HAMILL (Cook). You said that a man who was under an injunction, although it was void, was compelled to abide by it; you did not mean that?

Mr. KERR. That is the law in Illinois today.

Mr. HAMILL (Cook). You are quite misinformed on your law; if the injunction is dead obedience is not required.

Mr. KERR. I have been given very bad advice many, many times then.

Mr. HAMILL (Cook). If the injunction is issued without jurisdiction, then it is void.

Mr. KERR. They have injunction holdings here that are void entirely, but the injunction issued without jurisdiction, would be void, it is in force, and any violation of the inhibition clause is followed with contempt, and Supreme Court has held that repeatedly in many states, whether Illinois has I don't know.

Mr. HAMILL (Cook). Will you state an instance where the courts have so held where the injunction was void of abinitio.

Mr. KERR. I know of no other decision to the contrary and I am sure I know a hundred the other way.

Mr. HAMILL (Cook). If you find one in the next month will you be kind enough to send it to me or to any member of this Convention?

Mr. KERR. Surely.

Mr. HAMILL (Cook). You said there was no limitation on the power of a chancellor to punish one for violation of an injunction; you are familiar with the rule of law that the punishment must be reasonable, are you not?

Mr. KERR. No, sir.

Mr. HAMILL (Cook). Are you familiar with the recent decision of the Appellate Court of this State reversing an order committing one violating an injunction and turning him loose entirely on the single ground that the penalty imposed by the chancellor was too heavy?

Mr. KERR. I do not know of any; that would be another court-made rule. We have been before the legislature many, many times, and some lawyers have claimed the right to be discharged for the non-payment of a tort judgment at the end of six months upon the showing you are a pauper applied to injunctions, but I have never heard any one give any reason for it. I think in Illinois there is no limit on the circuit judge sitting as chancellor to imprison a man for contempt of court; that is my judgment as a lawyer.

Mr. HAMILL (Cook). There have been decisions within the last one hundred twenty days on that, just to the contrary.

Mr. KERR. That is my judgment of the law.

Mr. HAMILL (Cook). You spoke of the fact that workmen have never reflected upon the dignity of the court; are you aware in one recent case in the Appellate Court of the first district, the record shows that the man committed for contempt had called the chancellor who issued the injunction a dirty puppy.

Mr. KERR. An individual, or organized labor.

Mr. HAMILL (Cook). This was an officer of the union.

Mr. KERR. I don't know what individuals have done, I do not speak for individuals.

Mr. HAMILL (Cook). The quotation that you read from in the Manufacturers' Magazine was written by an individual was it not?

Mr. KERR. That was written, sir, upon the official organization on the front page as an editorial; you never know of a labor publication doing anything like that; what individuals have done, I don't know.

Mr. HAMILL (Cook). Haven't officials of the union expressed such sentiment from the platform time and time again?

Mr. KERR. They have cried against the injustice of the injunction and the activities of the judges; they are not speaking what they should when they do not.

Mr. HAMILL (Cook). Your whole claim that these provisions should be put into the Constitution because organized workmen are dissatisfied with the way the courts have held the matter, isn't it?

Mr. KERR. No, I would say it is the concensus of opinion among thinking citizens of this State that they have not been treated fairly.

Mr. HAMIL (Cook). And fairly by the courts?

Mr. KERR. Yes.

Mr. CARLSTROM (Mercer). In answer to Mr. Mighell's question, it seems to me you got to a fixed point with regard to the solution of the problem of the public when you said that complete organization of both parties would fix responsibility and that solve the problem, did I understand you rightly.

Mr. KERR. That is my hope, what my judgment is—it is a pretty big question.

Mr. CARLSTROM (Mercer). Having in mind based upon that assumption that you urge as a finality the frailty of men in organizations of every character, what remedy or what course would you say we would have to pursue to protect the innocent by-stander in case either of these highly organized bodies refused and failed to discharge their responsibility?

Mr. KERR. I do not know about that; when we begin to consider these questions, you say, "Let's reach out and get into a form of government where every man who has a bushel of wheat or a ton of coal a pound of cheese shall sell at a certain price, and you, Mr. Workman, sell at a certain price;"

what I say is, we have no right to single out workmen and try to fix his conditions and not others.

Mr. CARLSTROM (Mercer). As a innocent by-stander commonly known as the public—I am not seeking to do that, and it is not the spirit of the Convention here—but it is highly important that we preserve or establish some authority and power that will compel these two highly organized associations to respect the rights of the people in any emergency, don't you think so?

Mr. KERR. I think this, whether you ought to say law or not, I could not say, but organized employers and organized labor must submit all their differences to tribunals—I know where we would get, the Kansas situation —you have no situation like that—if you had compulsory organizations and besides, I am not saying that there would not be some injustice——

Mr. CARLSTROM (Mercer). If you had that compulsory organization, would you carry with it the power and the authority that compels the organization to recognize rights?

Mr. KERR. That is a big question.

Mr. CARLSTROM (Mercer). Don't you say as a citizen of Illinois, aside from your representation of this organization, don't you think the great mass of the people, men and women of this State who are not immediately and directly concerned should have some swift adequate remedy to protect them and to preserve them from that situation?

Mr. KERR. The trouble with all that is, and that is what we cry about, and I give you a statement that I know every word is true, that when labor does agree the employer does not agree, then the injunction has always been used against labor.

Mr. CARLSTROM (Mercer). Then the whole situation resolves itself into this, it is not the fault of the remedy, but it is the fault of the method of the application of the remedy against which you complain.

Mr. KERR. I see what you are getting at, whether some power should be created to say that you two people must agree, if you do not agree, we will agree for you, or we will make you agree; when you get into that, you open up a field, you say to the farmer, we propose to see that you sell your wheat at so much a bushel; I do not know how far you want to go in that field.

Mr. CARLSTROM (Mercer). But, the farmer has not been organized in the sense that labor is organized; it is a fact when you touch the distribution of the necessities of life you are touching most of the people, isn't that true?

Mr. KERR. No, you touch production when you touch labor.

Mr. CARLSTROM (Mercer). Would you say that we as a Constitutional body should directly abolish the one remedy that the people have against both capital and labor, to compel it to respect the ordinary fundamental rights of its citizens?

Mr. KERR. Do you want to deny—I think one in the Convention will do that—do you want to deny to labor the right to organize generally and thereby deny its powers of organization?

Mr. CARLSTROM (Mercer). No, I don't want to deny that; I do want to do this, and I feel it as my duty and responsibility so far as I can see, that labor and every other organization of individuals engaged in any employment of forming an association for any purpose may organize at their pleasure and at their free will so far as they do not act inconsistent with the rights of the great majority of the people, believing as I do, that societies organized for the benefit of the society and not for the benefit of anybody else; you would not abolish the one and only remedy we have?

Mr. KERR. I have given my deliberate judgment on the purposes of the injunction in this State.

Mr. WALL (Pulaski). I want, Mr. Kerr, to call your attention to section 3, and see whether or not we understood it alike; were you the author of this section?

Mr. KERR. Well, in conjunction with many who have spent many years at this, yes, I wrote it, but it is the thought of many.

Mr. WALL (Pulaski). As I understand this section, I want to see whether or not I am correct; no court of law or chancery would have any right to interfere at any time nor in any manner by the issuing of any sort of process or enlargement of any jurisdiction to oppose the right of any workman to quit, either single or in concert, is that right?

Mr. KERR. Yes, I would say that; of course you have read in meanings that I do not admit is in the proposal.

Mr. WALL (Pulaski). You say here—that is true, either singly or in concert—is there any substantial fundamental difference between men quitting in concert and a strike?

Mr. KERR. No, that is a strike; we do not cover that up, we mention the payment of strike benefits.

Mr. WALL (Pulaski). Now, if this is true, and there is not anything in section 3 or anywhere in this proposal with reference to notice, is it not possible that before the sun sets tonight you can tie up the entire transportation facilities of the country, stop all the coal mines, and other necessities of life without any attempt to show that there is any grievences or anything of that kind?

Mr. KERR. I think that is true; there is not a coal mine in all America that may not close their mines down; that is the privilege of the employing class of America to close their plants when they see fit.

Mr. WALL (Pulaski). In other words, transportation facilities, coal mines and other industrial enterprises in the United States could be tied up without notice to the public, with all the consequences that would follow without any attempt to show there was any grievance for doing that?

Mr. KERR. Yes.

Mr. WALL (Pulaski). And that right is guaranteed under the Constitution; do I understand that to be the import of this section as a matter of law?

Mr. KERR. Yes, men have the right to quit work collectively.

Mr. WALL (Pulaski). Without notice.

Mr. KERR. Certainly without notice. I think we have no slavery conditions here, yet.

Mr. WALL (Pulaski). You also have the right to picket collectively and the right to collect strike benefits just the same as if they were at work for the purpose of promoting the strike and keeping the boys together?

Mr. KERR. Yes.

Mr. WALL (Pulaski). I want to know whether or not this was the attitude of this section; now, we speak of the rights of the people as being the rights of possibly ninety per cent of all the people; I want to put this to you. Suppose it may improbable, and probably is, but suppose the railroad men should require a wage that is double the present wage, and without notice they should tie up these facilities; do you believe that immense power should be given to any single class of people in the Constitution of the State?

Mr. KERR. Yes, I say the right to quit any employment, be it a lawyer's job or any private employment, I have the right to quit my employment now, and so have you.

Mr. WALL (Pulaski). Have you the right to double your price, the price of your per diem or your yearly salary or whatever it may be, or treble it and then go and persuade other lawyers not to employ the American Federation of Labor, and have that right guaranteed in the Constitution?

Mr. KERR. I have that right, and lawyers have always exercised it.

Mr. WALL (Pulaski). Have you gone out in the exercise of it and persuaded other lawyers not to take it and thereby tied up the litigation that was necessary to the sustenance and the life of the American Federation of Labor and endangered them to that extent?

Mr. KERR. I have never done that, but lawyers have fixed their prices by conspiracy as much as these workmen do, conspiracy in the sense of an agreement.

Mr. WALL (Pulaski). I am not denying that, or condemning it. I am asking you whether or not you think any class of people, no matter whether

they are professional, laboring men or whatnot, should be guaranteed in the Constitution the right to fix their own wage regardless of the consequences upon the balance of the public.

Mr. KERR. Let me make myself plain—these rights are the rights which labor says has been denied them; it has not been denied to the other classes of people, and we say to you, and I need not prove it, every lawyer knows it, that there has been discrimination against the right of workmen to build up their contracting power.

Mr. WALL (Pulaski). That I am not discussing. Do you belive as a lawyer, a citizen and a representative of the American Federation of Labor in Illinois that the right ought to be given the laboring people as a class to absolutely without no molestation or hindrance fix their own price for the labor they produce regardless of its consequences upon the public and without notice immediately tie up for instance the transportation facilities of the State.

Mr. KERR. Do you ask me whether John Brown——

Mr. WALL (Pulaski). That does not answer the question.

Mr. KERR. He has a right to fix his price, yes——

Mr. SUTHERLAND (Cook). Your thought is that section 2, which reads, "The right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and shall not be abridged." That is designed to promote the general welfare, that is it would have that ultimate effect.

Mr. KERR. Yes.

Mr. SUTHERLAND (Cook). And now, of course we all agree, I think that all citizens are free and equal; would you say that section 2 may go further and be made to read as follows: "The rights of employers or proprietors, agricultural or industrial, to organize into trade and industrial unions or associations and to deal and speak through representatives chosen by themselves be declared and shall not be abridged." Might that also be added?

Mr. KERR. I could not find no quarrel with that; that is the very declaration in the labor plank of the peace council, that is exactly what they state there.

Mr. HULL (Cook). Would you fix the price of a commodity and refuse to sell it to anybody except at that price.

Mr. KERR. Repeat that question.

Mr. HULL (Cook). Would you permit the manufacturers and proprietors to go ahead and fix a price on their commodity and to refuse to sell it to the community except at that price?

Mr. KERR. It is a big question if you apply it to one you must go all the way and fix every human nativity; I am not going so far as you on that —I don't know.

Mr. HULL (Cook). Earlier in the discussion here you spoke of the grocer, that there was no law compelling the grocers to say at what price they were to sell their commodity.

Mr. KERR. Yes.

Mr. HULL (Cook). Suppose the grocers would say, "Except at this price we will not sell"—would not they be guilty of conspiracy?

Mr. KERR. There has been found situations of that kind and nothing much done. I don't want to follow the prosecutions. They have not gone very far.

Mr. KERRICK (McLean). Do you know of any court of this State or any state in the Union that has enjoined an individual workman against quitting work?

Mr. KERR. No, they have enjoined him from creating——

Mr. KERRICK (McLean). That is not answering my question. Do you know of any case in which a court has enjoined an individual to refuse employment which he was willing to take and at a price he was willing to receive?

Mr. KERR. I do not get your point.

Mr. KERRICK (McLean). Do you know of any instance——

Mr. KERR. I will say no to that, I think I get your point; I never heard of such a situation however.

Mr. KERRICK (McLean). Do you know of any labor organization having enjoined an individual from accepting employment which he desired to accept and at wages he was willing to receive, not by injunction but by threat of penalty if he did so?

Mr. KERR. It has been charged that labor unions threatened; that has been just as strongly denied; but labor has never gone to the extent in violence and I know what I talk about, that the other side have.

Mr. KERRICK (McLean). I will put the question in another form. Do you know of instances where the minority, only one smaller than the majority in a labor union desired to continue the employment in which they were engaged at the wages they were receiving could not do so because the law of their organization compelled them not to do so or in case of their refusal subjected them to punishment.

Mr. KERR. That might be true; labor unions are ruled by majorities like other organizations.

Mr. KERRICK (McLean). Do you say that every man has a right to sell his labor at a price which is satisfactory to him?

Mr. KERR. That is what has been decried——

Mr. KERRICK (McLean). Answer the question please.

Mr. KERR. That has been the object of labor all along.

Mr. KERRICK (McLean). Do you belive that every man has the right to sell his labor at a price which is satisfactory to him and in an employment which suits him.

Mr. KERR. Practically that has been the fundamental and basic claim of labor all the time.

Mr. KERRICK (McLean). What is the fundamental difference between injunction of a court directed against a man for the purpose of compelling him to remain in employment, or the injunction of a labor organization directed against a man for the purpose of preventing him accepting employment which he desires to accept, what is the fundamental difference?

Mr. KERR. Unfortunately, the injunction issued by the judge is not a matter of choice; with the men joining or continuing in the labor organization is a matter of choice, purely voluntary.

Mr. KERRICK (McLean). It has been suggested that an injunction issued by a majority of the organization would result in some sort of penalizing, has it not?

Mr. KERR. I would not say that, because that is not the fact, no.

Mr. KERRICK (McLean). Would it not in your opinion be something of a penalty for a man to be in a position where he would be left high and dry and called a scab?

Mr. KERR. Yes.

Mr. KERRICK (McLean). Is that a very serious punishment?

Mr. KERR. Yes, just the same as it is in war preparation for man that hold back and did not join was a slacker.

Mr. KERRICK (McLean). I do not care to go into that.

Mr. KERR. I don't want half answers either.

Mr. TAFF (Fulton). Who do you intend to include in the word "workmen" as used here, who do you intend to include?

Mr. KERR. I am not very well informed about that, Mr. Taff, I assume it means all those who work under a contract of hire; beyond that I would not say.

Mr. TAFF (Fulton). School teachers?

Mr. KERR. I would say yes.

Mr. TAFF (Fulton). Policemen?

Mr. KERR. Yes.

Mr. TAFF (Fulton). Firemen?

Mr. KERR. Yes.

Mr. TAFF (Fulton). Surgeons?

Mr. KERR. Well, a surgeon you employ generally, yes; surgeons are employed only for piece work, one individual, that is no group employment if that answers it.

Mr. TAFF (Fulton). Jurors?

Mr. KERR. Jurors are in the court and part of the court itself.

Mr. TAFF (Fulton). They are employed, are they not?

Mr. KERR. No, I would not say that, they are officers of the court there would be no argument on that.

Mr. TODD (Peoria). I am asking for information; I am not perhaps familiar with all the decisions, but there is not a decision in the State of Illinois in the last twenty years prohibiting strikes, is there?

Mr. KERR. The injunction never says we prohibit strikes, the injunction is against the only thing that will permit the successful conduct of it.

Mr. TODD (Peoria). What is that?

Mr. KERR. Injunctions are never issued in a strike situation, so the scales are unevenly balanced; the strikers are here, maybe their children are getting hungry; the employer is here and the fight is in the balance as to which side will win, always—remember I use the term always—and I know injunctions, injunctions are always issued at that critical moment to break down the morale of the strikers.

Mr. TODD (Peoria). What is the term of the injunction, what are they enjoined from doing?

Mr. KERR. From persuasing others to quit employment by means of strike benefits sometimes.

Mr. TODD (Peoria). Has there been an Illinois injunction against the payment of strike benefits?

Mr. KERR. Yes, sir.

Mr. TODD (Peoria). I am asking for information.

Mr. KERR. Yes; shall I read you one?

Mr. TODD (Peoria). What have you got, the Kemp case?

Mr. KERR. I have the case of Barnes vs. The Typographical Union.

Mr. TODD (Peoria). I know about that. It goes to the question of picketing, that is the only question involved, is it not?

Mr. KERR. In that particular case.

Mr. TODD (Peoria). And that is all you are seeking to get, is peaceful picketing, that is all you are seeking?

Mr. KERR. Yes, sir.

Mr. TODD (Peoria). And covering strike benefits?

Mr. KERR. Yes, sir.

If there are no other questions I will say I am much obliged to the Committee. (Applause.)

CHAIRMAN SNEED. The next speaker is Mr. Matthew Woll, who is President of the International Photo-Engravers Union, and eighth vice president of the American Federation of Labor. Mr. Woll is from Chicago.

Mr. WOLL. Gentlemen of the Convention. We are appearing before you today, not to ask for anything that we would not readily grant to any citizen of the community. We come here for additional rights as prescribed by the fundamental law of our Nation, and we ask that this Convention here prepare a document to be presented to the people which will make clear those rights that the Constitutional form of government prescribes, and to present a usurpation of power which has been going on constantly.

May I say, so far as labor is concerned, organized labor has demonstrated its loyalty, its patriotism, its belief in the democratic institutions of our land and in the form of government that we have. The labor of Illinois has also expressed its desire of having a convention of this nature for the purpose of so rearranging the fundamental laws of this State as to give true expression of the ideal of democracy, freedom of thought, justice and liberty. When it was proposed, the cause of labor heartily supported that movement. One of the reasons for its support was predicted on the belief that the great struggle which had been going on throughout the world, with the great revulsion which had manifested itself everywhere against autocracy, despotism and tyranny, would give way to the ideal of democracy, and that we

might now meet to give full expression to those principles and concepts of freedom, justice and democracy, and so we appear here and ask purely and solely for that.

The proposal as presented by the wage earners of Illinois in its first section asks, that the labor of a human being is an attribute of life; is anyone to question that labor is purely an attribute of life? That it is part of man himself, that it constitutes flesh and blood and brawn—can there be any denial of that declaration on the part of you gentlemen? Can there be any difference of opinion that the labor of a human being is an attribute of life? We say in the negative form, it is not property. Why do we say it is not property? Because courts in the interpretation of property rights and property have assumed that business is property, they assume that if a man has possession of property, that also carries with it a property right, and the labor power to give value to that property; while not perhaps directly speaking that labor is property, by inference and by assumption of the extent of property rights it leaves practically no other inference and we are desirous that that be made clear, that labor is not property; when anyone in possession of property acquires a property right and the labor power that may be essential, that was put in operation by mechanical device, property that may be in the possession of some one else—we are not asking for that, we are asking merely for the reaffirmation of the Constitution itself. The Declaration of Independence first of all predicates this government not even on the rights of property but on the rights of liberty; it says, "We hold these truths to be self evident, that all men are created equal; that they are endowed by the Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness; that to secure these rights government was instituted among men, government deriving their powers from the consent of the governed." That is the principle upon which our government is founded. There is no mention even of property rights involved. The right to life, liberty and the pursuit of happiness is an inalienable right; it cannot even be bartered away by the individual himself. In the Constitution, however, we find that there is a distinguishing mark made between liberty and property, and gives to each individual the right of freedom, of liberty, the right to himself, denying the right to anybody else of dominion of his will over that of another, and sets forth the rights of property, and so in our fundamental law we conceive the two distinctive rights, but unfortunately in the administration of law, those rights have been confused and the right to reaffirm the right to oneself has been subordinated to the rights of property. We are still laboring under that conception, so that every workmen is required, is obligated to give service to someone else; the Constitution negatives such a proposition. The constitutional provision makes such a requirement unconstitutional.

You cannot subordinate the will of an individual to the will of someone else for his financial gain, but I say unfortunately that conception has not been manifested throughout the series of decisions and laws and even of legislation, and is to make clear that distinguishing mark that the labor of a human being is an attribute of life and is not property that we desire to have made clear.

We know that injunction proceedings have only been secured and granted for the enforcement of laws to protect property and property rights to which irreparable damage may occur, for injunction decrees are not issued over which there may be any adequate remedy at law. Nevertheless, when we have looked to the administration of law as it governs between manufacturers or employers, we find that there exists a clear distinction between contracts for personal services and contracts for the sale of property or commodities, and a very clear line of distinction is made there which evidences the outward dual administration of law under which we labor, that when the relation of employer and employe is involved that then of course the relation of personal service is overlooked, but when we seek in the industrial world so far as the employers themselves are concerned, we find there is that distinguishing mark of contracts for services and contracts of sale.

I need not refer to it but briefly to say that to order the manufacture of a certain article which can only be used by the particular individual or concern is not of a general nature which may be used by the general public, that courts have interpreted such a contract to be one of service in which no delivery has been required, whereas if something is manufactured of general service there is a contract of sale applies; unfortunately in dealing with labor relations that distinguishing mark has been overlooked, and that is why we ask that this Convention make clear that the labor of a human being is an attribute of life and is not property.

Now, the next section, "the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." Of course, the question of property will be defined later on by one of the other speakers to you. Property in the general acceptation of the word means the complete and exclusive dominion over what is in one's possession and in that light there can be a property right in a man's labor power, the human power of any individual, and we make no distinction whether the individual be a professional man or whether he be a workman. After all, the question of activity of human life is not only a matter of physical exertion—all physical exertion requires mental exertion—it is true in different lines of occupation the proportion between physical exertion and mental exertion may vary and does vary, but nevertheless all manifestation of life requires some form or another of physical as well as mental exertion, and that is labor power and that is service, and that is what we hold is an attribute of life and is not as conceived in law property or which any one has a right or may claim as a matter of right. The old conception when the injunctions were issued to property was all tangible and real property, but since the introduction of the chancery courts in the olden times, and even since the foundation of our government courts have extended the concention of all property; today we have intangible properties in far greater valuation than the physical properties of our nation would substantiate. Today the power to capitalize, to fix valuation upon tangible as well as intangible property has extended the conception of property which is going to impose disaster on the world if not soon changed. We speak today of great wealth. We have just gone through a great world war where property was destroyed in a way never before known in history, and yet the statistics show that the wealth of the world is greater today than it was during the period of the war. Does that wealth represent physical property? No. It is simply a mortgage upon the generations to come, the power to produce and the unrestrained and unlimited power to capitalize the future productive capacity of the people's of generations to come, and yet courts maintain there should be property rights and give recognition to it and protect it; hence the workers become enslaved to that doctrine where he must produce to give value to intangible properties, to values which have been created in that fashion.

We say "the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." We take it we are meeting here not to enact a law. It is not the function of government to enact a Constitution; that is a function of the people, and we are here to try to prepare a statement of fundamental truths, a statement of fundamental rights, of fundamental justice, and to ask that the people might protect those powers of government so that these rights cannot be interfered with by the powers of government. We say that the right of workmen to organize into trade and labor unions—we are asking for no more than is granted to employers; what is our industrial system, what does it present to us today? Is it the employer dealing individually as an employer, or have we associations and organizations which dominate in the commercial, in the financial, and in the industrial field? Is it the individual stockholder of himself and by himself who is the employer? Is it the investor of himself and by himself with whom the worker deals? Oh, no. It is with combination of stockholders, combination of investors, combination of persons who have pooled their financial holdings to carry on industrial or financial enterprises

with whom we deal, and the right of persons in possession of wealth to organize into group entities is recognized and it protects them and to give those special rights which do not go with the individual. It gives them encouragement to organize. It recognizes their right to speak through representatives, through counsel in all matters of contract and yet when we seek to apply that same rule to trade unions we find that the right is denied. Oh, it is true we have our trade unions today. It is true that organized labor today embraces a larger membership than ever was heretofore. It is true the right to organize and to deal through its representatives is more extensively applied today than ever before, but it has not been by measure of law, it has not been by the good will of judges, it has been by the exercise of economic power that the workers have been enabled to secure expression of that right which the Constitution provides, but which when labor exercises that power to secure that right when denied by the employer the employers appeal to the equity courts to restrain the workers from securing absolutely that power of representation. Oh, not by direction, not by direction, but by indirection, by restraining them from doing certain things lawful in themselves, but making it impossible for them collectively to exercise their power to remain out of employment long, when the power of hunger and starvation may drive them back, and it is in that way that the right of representation has been denied, and that on the part of employers has been given permission and supported by the equity divisions of our courts. When we ask for this it does not mean that the employer must deal with the organization or deal with any particular representative that the organization choses, because we believe in the freedom of contract and our whole demand is based upon freedom of contract, but we do believe that when the employer exercises his right not to deal with a certain group of men, or to deal with their representatives, that after having exercised that right he has not the additional right to appear in the equity courts and use the functions of government to maintain his right and deprive the workers of their equal rights, and that is what we mean, a restriction upon the judiciary or upon the legislature to enact laws which will give greater rights, privileges, greater authority to one party to a contract than it does to the other. We ask this Convention that the freedom of contract be fully safeguarded both on the part of employer as well as on the part of employe. Give to us the same rights that the employers have and we will have no cause for complaint; give us the same opportunities to use the powers of government and we will have no complaint, but there is the difficulty. Under our present concept of law and definition of property and the relations and standing of business all the powers of government are thrown into the scale to the advantage of the employing interests.

Section 3 provides "no court, tribunal, judge nor any officer or official shall by any process, order, injunction, restraining order, decree or proclamation abridge the right of any workman to quit any employment either singly or in concert," The Constitution states the right to freedom is inalienable. It cannot be deprived, it should not be deprived. This provision that we ask is confirmation of that, that men should have the right to quit whenever they choose singly or collectively.

There was a time in the history of our country when the black man was considered property, and a gentleman over here asks was there a time when the services of labor was considered property. Well, unfortunately that great revulsion in our great nation has been overlooked and find the black man to have been property in law. The property in man was destroyed then and the thirteenth amendment was enacted making it unlawful for any State or any individual to require compulsory service or to inforce involuntary service on any individual except for the punishment of crime. We are not asking that that declaration be amended, we are asking that it be enforced, we are asking that involuntary servitude be abolished as punishment for crime. Of course, even that amendment has been subjected to a severe test. In the South they attempted, as is now being attempted in Kansas and is in a number of measures that you have before

you to devise a system to again re-establish involuntary servitude and evade the provisions of the thirteenth amendment. At that time the device was to place the workman under an obligation by advancing him money and if he failed to complete his contract of service then to consider it having been a crime and to punish him for a crime having been committed, and one Alabama case and a case in Louisville where it has been held that any form of servitude or any threat of crime for the violation of a contract of service was in violation of the thirteenth amendment.

We say we have the right to quit. Of course no one will deny this right that workmen cannot be compelled to give service if they desire not to give service. No one will deny that and we will not say it has been usurped, but once the contract of service relation has been established, then we find the fine distinction made in the law as between quitting your job and striking for improved conditions in your job, and there we find the courts have thrown support to the employer, claiming that because he has invested in this property that the law protects him in the exercise of that property, and that because labor power is necessary to give value to that property hence he must have an uninterfered with right and privilege to the labor power and labor service, and any interference with that right is in violation of his constitutional right in property, and on that basis and on that protection the right of workmen to cease work and refuse to give service until conditions are obtained desirable to them, until a real contract and meeting of minds has been consumated, has been held to be an illegal combination and a conspiracy.

It is upon that doctrine that we raise objections. We do not urge the destruction of the equity powers of the courts. We ask that they be confined to their original jurisdiction. Let them deal with physical property, but they have not the right, nowhere has it been delegated to the courts under our system of government where government shall only control with the consent of the governed, there will be powers of the court to enlarge and widen the equity jurisdiction by legal fiction has been an assumption of power, and that assumption of power is the element of despotism and tyranny and is a negation of democracy and of delegated power.

We ask that the equity powers be confined strictly to their original jurisdiction, to property, tangible property, and not to enter into the field of the relations of employer and employe, that field under our system of law where the individual is the sovereign, not where the State is the sovereign, where the individual is a sovereign and all powers of government are derived with the consent of the individual and where the system of contractualism determines the relations between man and society and government. We ask that equity courts not invade that field and we ask that this Convention propose that the equity jurisdiction of the courts hereafter not invade that field of personal security, that field of personal liberty. In its original jurisdiction we have no complaint to make against the equity powers, although it must be conceded that the old common law methods of seeking redress were hard and there may have been some justice for an equity division, but nevertheless there should be to a large extent in modern times and if they are not yet made to serve the needs of the people, is it not still better to enlarge and improve upon our present common law statutory methods of redress and let the people know by statute what are the laws rather than to enlarge the equity jurisdiction and allowing the people to be dominated and controlled entirely within the conscience of the courts, which it is impossible to read, impossible to understand, until it appears in some form or another, and after all when we are seeking greater liberty, greater democracy, a better understanding between man and man, is it not well for your Convention here to give consideration to make clear what the law is and writing it in the books rather than placing it in the equity division where it can only be read by precedent, time and experience and then difficult of understanding where no one knows what his rights are or what his rights may be, and so the time would be well spent if this Convention would make it clear in law and defined in statute books rather than leaving it in the unrestrained conscience of the judiciary? We ask,

of course, for the right to quit, the right to strike, and in that the workmen ask for no more than is exercised by the employe interests today. Take our steel corporation; I am not informed how large the combination of stockholders is, but I am sure it has within its membership thousands and thousands of stockholders and security holders. It is an organization of men who have pooled their financial interests, and who is there that will say that the steel company has not the right to say to the workmen, "We shall not give you those wages, we shall require you to work so many hours," or "We shall require you to work at this wage or that wage?" Is the government going to interfere and say to them they have not the right to do it? If that is the case then it is indeed surprising to look back but a few short months to have realized the exercise of that by the combination of stockholders, investors and security holders in determining conditions of employment which has caused the great suffrage to the public and to the community, and not a word uttered about the rights of property. So we are asking only what the employing interests are doing today, the right to quit our jobs singly or collectively, yes, and the right to strike collectively.

There is now going on a very subtle propaganda very likely to lay the foundation for this conception of industrial courts, that there is a difference between the right to strike and the right to quit. That the right to quit means your desire to quit your employment because of ill health, because you have a better job, because you do not care to work for that particular employer, but the right to strike is not that, but they use the economic power to improve your employment, therefore there is no severance of the contract of employment, thereby giving the power to the government to enforce the contract for services.

May I say to you frankly, however, that the workers realize that they are free men. They have been taught more forcibly than ever the ideal of freedom and justice and democracy. We are experiencing that in our political field every day, and with the further development of education that ideal is bound to spread and grow, and courts or no courts men will not be bound and have the will of others imposed upon their own unless it is predicated upon justice, truth and democracy.

The American Federation of Labor, the American working people feel that there must be a greater degree of democracy in industry; they realize that the only way to secure that degree of democracy is by re-establishing that equilibrium which existed before the great formation of present capitalistic organizations and the great organizations of finance, the great organizations of industry, the great organizations of commerce; unless workers build up a significant force, an organization to compete with that, until that time the equilibrium of equal opportunity of making a contract which is truly mutual in character would not be had, and that is the sort of democracy that we are urging in industry, the right of the wage earners by force of number equalling the force of the employing interests and thereby giving, receiving and having an impelling voice in determining those conditions which directly affect their conditions of life and conditions of employment.

We hold it is not the function of government, the function of law, function of equity condition of courts to enter into the determination of relations, the standard, the requirements of work in industry, but it is our protest against the equities injunction proceedings to leave that field a matter of contractualism between employee and employer, giving the employee the same rights that the government has given to the employing interests.

May I say to you this, if we are to feel that government should step in and regulate the relationship between employer and employee, that if now this new conception of public interests in the making of contracts is to be given a constitutional standing, if the right to liberty and the right to property is now to be made dependent on a further right, upon that of another party, then we are indeed changing our entire form of government, we are changing our real conception of democracy and we are going very fast to the state which is so well known as the socialistic side of society,

in which state becomes the predominating authority and power and in which the individual becomes simply a cog in a big machine, and why the conception of contractualism, freedom and liberty and the right to deprive property will be entirely destroyed. If it is proper for governments to step in and say to contracting parties you shall not exercise your right as an individual to give or not to give service, it should also step in to the employer and say you shall operate that industrial plant, you shall do so and so in the operation of that industrial plant.

It is really surprising the nature of the questions asked this morning, that they should always have been predicated on that proposition; do you claim for yourself the right to give up service and impose this condition upon the public; should there not be power to restrain to some degree your opportunity as a free man, built entirely upon the conception that only one party to the contract for service is subject to the regulation of law?

Let me ask you a question: Do you believe that the railroad owners should have it within their right to say that where the men have been getting five dollars a day that they should get four dollars a day and throw men out of employment? They have that right. They may do it. They may find it inadvisable to exercise it, but they have the right. They may dismiss employes by groups or singly, and you say we cannot quit singly or by groups. The employer may dismiss them or lock them out singly or in groups. Whether it is advisable to exercise that right, whether they would exercise it or not is not the question. They have the right to do so.

Let us take other industries. Take the mining industry; you spoke about starving the people and the children going hungry and cold. May I ask you first of all, who are the fathers and mothers of the great mass of children of this land? Are they not the children of the workers? Are they not the children of the laboring men? They are the ones that are appealing to you for their rights as free men, and do you think they are not concerned in the welfare of their children? Do you think only the employers are concerned in the welfare of innocent children and in the protection of property and homes? History does not prove that. History does not demonstrate that as a fact. But the mines are closed, the men have gone out on a strike. Oh, it is wrong for them to go on a strike, they should continue to work. Why? Because always that conception that the workmen must give service; never the man who owns the mine, the owner; why does he refuse to deal with his men, why does he refuse to concede them some of these things or establish better conditions, or why does he allow the wrong conditions to continue and require those men to give up their employment? Never a question as to their right or responsibility, and if the old conception of Abraham Lincoln holds good today, "Human rights shall be given preference to property rights"—and if in the making of contracts between employer and employee, one representing capital, inanimate objects and the other representing human rights, if fault is to be found because those two elements fail to agree, then I say with Abraham Lincoln the condemnation rests first upon capital, and then thereafter upon labor; but such has not been the history of our nation; such has not been the history of the situation. It is against that we protest; we ask only for equal rights and equal privileges in law and in fact and it is to prevent these things we need law so far as statutory enactments are concerned where legislators are coming from the people, where they understand the pulse of the people, we would rest content to let them enact whatever law is desirable or advisable, realizing they are the representatives of the people, that they are the legislative body, that they are to determine what is right or wrong, that they are to determine the penalty that should be imposed in the event rules enacted have been violated. We ask however that the legislative branch of the government be exclusively vested with that field, and the checks and balances devised by our forefathers to prevent encroachment of one department of government upon the other should be fully safeguarded and enforced; that the judiciary should no longer be permitted to invade the field of legislation; judiciary should no longer invade the executive field of the department of government. In that we agree with Blackstone

and with Storey and with all great students of constitutional questions, that the minute you allow one department of government to usurp the powers of another then you have established a way for the infringement and the restrictions on the rights of liberty, freedom and justice. So we ask you to clearly define the powers of judiciary and we ask you so far as labor relations are concerned that whatever legislation is required in the field of industrial relations is not a field of legislation for the judiciary, for the equity branch of the court, but there is a field reserved to the legislature, the popular assembly expressing the will of the people. We must carefully safeguard that point and I think if your Constitutional Convention would accomplish nothing greater than that, to set out clearly, distinctly and rightfully the powers of each of these branches of government, then this Constitutional Convention will go down in history as one of the greatest assemblies that has ever been recorded in the history of Illinois for safeguarding of freedom, liberty and justice.

Oh, it is just the opportune time when light has been shed, as it has in Europe, to establish the ideal of justice and democracy and destroy the conception of autocracy and despotism that you men are here now enforcing that same conception in the State of Illinois and taking away the right by the support of law autocratic domination and control in industry, taking in practically all the phases of life, and that is why we ask that you prevent the judiciary from exercising injunctive power as to matters of legislating for industrial relation, of determining the function of government, which, if it is to be exercised, should be exercised by the legislature and not by the judiciary branch of government.

May I refer just briefly to several of the other proposals that are before your Convention, and in which it is proposed by one to place within the judiciary full power and control over industrial relations. I wonder if the proposer of that proposition has given any serious consideration to the ultimate consequences which will result if this Convention supported by the people by a favorable vote, with such an enabling clause and the legislature would thereunder adopt it and give that power to the judiciary, what your judiciary would be? Whether we would have a government of democracy, of individuals, or whether we would have a clear and distinct system of socialism where the State would be the all-powerful interest and the individual without rights.

We have another proposal to establish an industrial court, similar to that established in Kansas. I wonder if those who enacted the Kansas law and those who are considering that proposal at this time realize the consequences that are likely to arise under the development of that sort of judicial system and principle of government? Oh, I am convinced that under the Kansas law when the rights of property become involved that the United States Supreme Court will immediately bring out Amendment Five, Amendment Fourteen, Amendment Thirteen, and say that the Kansas law is unconstitutional because it deprives persons of their liberty without due process of law; it does not give them equal standing before the law and it takes their property from them without due process of law. I have no doubt in my mind that that will be the case, and I believe that that would be the right ruling to make, but I say to you, too, it is just as desirable to protect the right of freedom as the right of property, and those who would consider adopting the industrial court system in order to protect the great public against strikes and lock-outs would simply usher in the day when private property would be destroyed, when individual freedom and all freedom would be annulled and the socialistic state would come into control with full and complete dominion. Under the Kansas law if those seeking to promote socialism would strike, strike, strike over and over again and compel the government to take over industries and operate them, it would soon have that condition of affairs, which none of us who are true lovers of democracy, liberty, the concept of our government want to be perpetuated and handed down to the future generations without blemish or stain or without revocation or restriction.

So far as the legal phase is concerned, that has been treated upon; the powers of the State are not absolute, and I ask that you men in your deliberations do not overlook the fact that this government, while it is founded exclusively upon delegated authority also holds a reserve authority, and that the Constitution of the United States does not permit the States invading those rights safeguarded to the people.

Mr. LINDLY (Bond). May I interrupt the speaker to suggest it is now nearly one o'clock. I move you we take a recess until two o'clock.

CHAIRMAN SNEED. May I ask the speaker if it would be best for him to finish his address now, or does he care to be interrupted.

Mr. WOLL. I am perfectly agreeable to whatever the Convention wishes to do.

Mr. LINDLY (Bond). I move that we take a recess until two o'clock. (Motion carried.)

Whereupon the Convention of the Whole took a recess until Wednesday, April 7, A. D. 1920, at two o'clock p. m.

2:00 o'CLOCK P. M.

The Committee of the Whole re-convened pursuant to recess.

Chairman Sneed presiding.

CHAIRMAN SNEED. When we recessed at noon Mr. Woll was addressing you, and he will resume his address.

Mr. WOLL. At the adjournment of the morning session I was about to enter into the phase of the equity division of our courts entering the sphere of the executive department of government. I endeavored to make clear this morning that what the workmen of Illinois desired, what they believe is essential was that the equity division of the courts should be denied the functions of legislating; that that was a function of government which by constitutional requirement and well devised checks and balances of government should be confined exclusively to the legislative branch of government. The equity courts dealing with injunctions of industrial relations have not only undertaken to define what is right, what is wrong, what is lawful and what is unlawful, but they have also attempted to give enforcement to their decrees; in other words, they have also transgressed upon the executive branch of the government. If that is true we need only refer to the very recent injunction in the miner's case where Judge Anderson issued a mandatory writ compelling men to do a thing they had a right to refrain from doing and compelling its officers to undertake acts which they had no authority to undertake. Therefore we feel that the powers of the equity courts ought to be defined solely to judicial questions, questions which come directly under the equity division of the courts as originally defined and conceived, dealing exclusively with physical tangible properties and rights and titles to properties, but that the relation of employer and employe is not a field for the equity division to enter into.

The proposal the workers of Illinois have submitted to this Convention also asks that a restriction be placed upon the legislative branch of the government. We ask that the legislative branch be only authorized to deal with questions which do not interfere with personal liberty and personal security, such as has been provided, safeguarded and declared for both in the Declaration of Independence as well as in the Constitution of the United States. Amongst those are liberty and freedom; we ask then that the legislative branch of government be prohibited from invading the field of liberty and freedom of action. We ask that it be prohibited from denying the wage earners the right to organize into unions and as organizations, voluntary organizations, seek by contractual methods to improve their wage or working conditions. We ask that the right to strike or quit work be not interfered with by the legislative branch in any way, shape or manner, for to do so would be simply an encroachment upon personal liberty and freedom of contract, the enforcement of the will of one man upon that of another for his gain; to restrain the workmen in any way from exercising their right to quit work or to strike, singly or collectively would practically

mean that the wage earner would be compelled by law to submit his will to that of another group of persons or individuals for their particular private gain and interests. In industrial disputes differences arise as to wages, as to hours or other working conditions; if the workmen are denied the right to quit or to strike, if the contract is not won which permits them of their own volition to accept employment, if the law steps in through its legislative branch and says you shall not give up your employment, you shall not cease work, you shall not strike, would simply require the employee by law to give service to another person or citizen or group of persons to their advantage and private gain and would necessitate the complete dominion of the will of the employer over that of the employe. That relationship and that conception of a relationship is clearly in violation of the thirteenth amendment, which prohibits the establishing of involuntary servitude, and involuntary servitude, while broad and general in its nature, nevertheless in that regard has been clearly defined by the United States Supreme Court to include any form of enforcing upon the will of another the conditions which make for the gain of some one else. So we thought that this Convention would likewise in its judgment ask for the sound fundamental principle of liberty, that our fundamental law shall preclude and prohibit even the legislative branch from invading the rights of freedom and liberty as they have been restrained from invading the rights of property.

In that regard may I say just a few words on the attempts now being made to enforce or to develop industrial courts; courts intended to deal with the adjusting of controversies arising in the industrial field having to do with the relationship of employer and employee?

You have before you a proposal which, if not identical in its terminology, at least is similar in purport to the Kansas law, which prevents workmen from combining for the purpose of striking, makes it illegal for them to strike, establishes an agency to determine the relations that should prevail in the difficulties or disputes that have arisen and hopes thereby to continue a peaceful industrial relationship. In that legislation it also proposes that the State may acquire temporarily possession of industries and operate them. As I stated this morning I am quite sure that the originators of the Kansas law as well as the proposal of this particular constitutional provision to this Convention have little knowledge of the consequences involved in proposed legislation of that kind. Fundamentally it destroys unqualifiedly and absolutely the American conception of freedom of contract. It seeks to change entirely the conception of our American form of government, which is founded on the social contract idea where the individual is a sovereign power, where the powers of government can only be had by the consent of the governed and establishes a form of government where individual freedom is entirely destroyed and the State becomes the source of all authority, privilege or right. It establishes a condition wherein the wage earner becomes a slave to the government; where the dominion of the State will govern rather than the dominion of the will of the people. Not alone is it fundamentally unsound, not alone is it undemocratic and unamerican, but in essence it is socialistic and finds its best expression in Russia in the form of Sovietism and under the philosophy of Bolshevism. It is under that system of government where the State is all supreme and all-powerful, it is in that unhappy country where all the rights and privileges of the individual come only from the government and where the wage earner and the employer must bow to the will of the State rather than be given free expression of will, restrained only to that degree where it interferes with the equal privilege and right of other fellow-citizens. The proposal which denies to the wage-earners the right to give up their employment and would force them to submit to the will of the State, or will of a particular agency or industrial court, or to the will as is now going on in our present time of an individual judge is well expressed in a work by Nicolai Lenin of the Russian republic.

The same thing is going on in Kansas today, subjecting the will of thousands to the will of a comparatively few, by denying the individual the

right of determining under what conditions he shall give service, under what conditions he will enter into contractual relations. The American conception of leaving the sovereign power in the individual is reversed and the Bolshevistic idea of placing the dominant will in the State is well exemplified in the law in the State of Kansas, and we ask, are we in this time and day to adopt as our American principles the principle of Sovietism and despotism and autocracy? And we want you to consider seriously when this proposal is submitted to you of establishing an industrial court to take out of the field of competition other classes of opinion and adjust differences between individuals and groups by individuals and groups of their own volition, or whether you are going to put in place the powers of government and destroy the very conception upon which our nation has been founded and upon which our institutions have been predicated? The question of preventing strikes, the question of seeking to adjust difficulties between employer and employees through legislative action by establishing certain agencies to adjust these difficulties carries with it practically the making of contracts for both employer and employee, and I feel quite confident that both the Kansas State law and any such proposal if it were enacted in this State, would soon find objection not only on the part of wage-earners, but would also find objection on the part of the employing interests, because the State would then step in and determine the condition and the relationship that should exist. As a matter of fact, involved today in this relationship is practically every aspect of life, practically every manifestation of life, and to place in the power of an individual or group of individuals as the agency of the State the right to determine labor relations and labor contracts, carries with it the fixing of wages, fixing of hours, the conditions of employment and of necessity would also require the regulation of private enterprise itself, not only the regulation but the actual conduct of business through government agencies, and I ask you seriously, are we today, because there have been industrial conflicts which have resulted in temporary hardships here and there in an endeavor to remove those conflicts and that harm to apply a method which will carry with it by far greater evils and injuries, which will carry with it the over-setting and overturning of the very conception of our government itself? We realize that in a democracy there are going to be injuries inflicted. We realize there are wrongs to be committed. We realize in a democracy there are weaknesses, that frailty of mankind is bound to manifest itself here and there, but you are not going to overcome those weaknesses, wrongs and frailties by substituting in place of a democracy the bureaucratic form of government, the form of tyranny or despotism. History has demonstrated that governments of that kind carry with them greater evils than have manifested themselves in all the democracies of which history enlightens us.

So this whole question is fundamental and grave indeed. I think it is one of the most important questions that the Constitutional Convention has before it. Shall we hereafter be a free people? Shall we hereafter perpetuate the Declaration of Independence of our forefathers? That life, liberty and the pursuit of happiness are the inalienable rights of the people, and that to secure these rights governments are instituted among men deriving their just powers from the consent of the government or are we going to establish a government where life, liberty and pursuit of happiness shall no longer be determined by the people themselves but shall be inflicted and imposed upon them by the powers of government from the top.

From the practical standpoint all attempts made to prevent strikes by legislative enactment—oh, yes, by equity legislation and equity enforcement strikes have not been averted and will not be averted; no matter what institutions you may devise, no matter what devices the people may enact individual liberty will find expression even against law, and our very government has been founded against a protest, a violent protest against legislation imposed upon it rather than through its co-operation and by consent of its will, and so we are not immune; should we in this stage of our history when the whole world opinion and mine is in a state of revolution seek to restrain individual activity, seek to deny, restrict and prohibit expressions

of freedom from those experiences that history has shown are bound to follow whenever people are sought to be restrained are put under the dominion of the wills of others than ourselves in the co-operation with each other.

We ask that the wayjourners be not interfered with in their right to select their own representatives of their own choosing to speak for themselves. We are asking for industry what our Constitution provides in our political relationship, the right of representation, to be heard by counsel, and we ask that the equity division shall no longer be a reflection upon our legislature, that the equity division shall not any longer administer our affairs, that they cannot by law deal and give equity. That we must have a special division where justice may prevail and that our laws do not do justice, only we ask that the equity division be confined purely to judicial functions and that its restraining influence be only confined to what was originally intended, property and property rights and not to deal at all with the personal relationship. We are only asking what our forefathers had in mind when they proclaimed the Declaration of Independence and when they wrote the great document, the Constitution of the United States.

We have gone through a great period; the world is in a state of turmoil; the voice of mankind is crying everywhere for the rights of men. Peoples everywhere are denouncing autocracy, tyranny and despotism. Peoples of the world want the right to work out their own salvation in their own way. If mistakes are made they will gladly suffer for them, but for the right to even make mistakes are we in this day and time here in Illinois that has brought to this world its great liberator and emancipator Lincoln, where so strongly was advocated the rights of man against the powers of government, are we going to reverse that policy here in Illinois and establish autocratic principles, establish elements of despotism and of tyranny simply in order that we may temporarily avoid some of the inconveniences of life? Why, if we had a society in which there was no conflicts—I do not believe any of us would care to live in that state of society, because after all what is progress? What has meant for progress? Has it not been the conflict of opinion, has it not been the conflict of activities which has brought out truth, which has made for progress, which has made for advancement? Without struggle, without inconvenience, without unrest there can be no progress, and where there is no progress there of necessity be a state of deterioration, because in all things there cannot be a standstill, we go forward or backward, and it is for you men to determine largely whether in Illinois we shall go forward or backward; whether we shall go back to the old period of English history when there was a scarcity of labor and a raise in wages because of the scarcity of labor, and because the government was controlled by a ruling class, there was enacted a Statute of Laborers, tying them to their jobs, making it unlawful for them to give up their employment. Are we going back to those days? Are we going back to the Elizabethian period where wayjourners may not give up their employment, where wages were regulated by law? Can we go back to that period of time, or are we going to stand in the line of progress and give first consideration to man and to rights of men, and if to fully safeguard the rights of man we will give it consideration to the carrying on of industrial enterprises, commercial undertakings and financial enterprises? After all, industrial, commercial and financial enterprise ought not to serve the purpose of multiplying wealth in the possession of a few; industrial, financial and commercial enterprise ought not to be encouraged to enslave and to increase poverty on the great mass of our people.

Commercial, industrial and financial enterprises should be made to serve humanity, should be made to serve greater consideration and opportunity for the manifestation of those rights of liberty and human happiness so well declared for and defined in the Declaration of Independence and in the Constitution of the United States.

Now, there is much to be said on this question. There are other speakers to follow and I have taken up considerable time. May I just in a few words sum up the thoughts as they occur to me and as outlined in our proposal, that the Declaration of Independence should be clearly set out in

whatever recommendation your Constitutional Convention may make to the people; that the rights of liberty, that the rights of land, of free men, should be fully safeguarded; that freedom of contract shall not be interfered with or transgressed upon, and that the wage earner's right to collective action should be granted as clearly as to those investing their monies in commercial, industrial and financial enterprises, and that the equity courts should be denied the right of legislating or enforcing or in any other way entering into the sphere of personal relationship and industrial relationship; that the legislature should likewise be restrained from interfering with these rights, and that encouragement be given to the employing classes to organize, to deal collectively with their relationship, establish standards of employment which will warrant the realization of pursuit of happiness and be helpful in bringing about a better understanding and clearer conception of the rights of all concerned?

THE CHAIRMAN. Any questions, gentlemen?

Mr. CUTTING (Cook). I listened with much interest and profit, no doubt, to the address of the speaker, and just two or three questions have occurred to me and I would like to have an opinion on it, not in a controversial sense, but to find out what the position of organized labor is on matters of this character. I understood the speaker to say, and he will correct me if I am wrong, that the leaving of employment for the purpose of going elsewhere or improving his position stood upon the same basis as the right to collectively strike?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). That both depended upon the right of the individual to terminate his employment whenever he saw fit?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). I take it the right of the employer to discharge is also conceded, is it not?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). Now, if a man leaves employment of his own free will and goes elsewhere, it would be quite improper, would it not, for the employer, because he was piqued at his leaving his employment, to follow him and try to prevent his seeking or getting employment elsewhere by black-listing him or doing something of that kind; that would be wrong, would it not?

Mr. WOLL. It would be wrong. Of course, when we are speaking of wrong, we are not speaking of unlawful, but it would be wrong.

Mr. CUTTING (Cook). He ought to be allowed to go in peace and better his condition, if he can?

Mr. WOLL. Yes. However, that right is exercised today by the employers.

Mr. CUTTING (Cook). Yes; I do not justify it, but I am simply suggesting it ought not to be.

Mr. WOLL. And May I go further?

Mr. CUTTING (Cook). Yes, as far as I am concerned.

Mr. WOLL. The Supreme Court of the United States has ruled that any attempt on the part of the government to restrict the employer in that right is in contravention of the 13th amendment.

Mr. CUTTING (Cook). Yes.

Mr. WOLL. And 14th amendment, in that it deprives him of the equal protection of the law and of property without due process of law.

Mr. CUTTING (Cook). Yes. Now, when a man leaves his employment, no matter whether it be as an individual or collectively, he ceases to be an employee, does he not?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). Has he any property right in the job which he has voluntarily left?

Mr. WOLL. I say to you he has not, but may I answer also that if the employer has a property right in labor, or that he has a right to labor, then I hold that the labor man, the wage earner also has a right to the factory, a proprietary right in the factory.

Mr. CUTTING (Cook). I think I would agree with you, but your premises are not true, as I understand it.

Mr. WOLL. I agree with you that the worker has no right in the factory any more than the employer has a right to labor.

Mr. CUTTING (Cook). Exactly. That is, I understand you are in favor of an absolutely free contract?

Mr. WOLL. Absolutely so.

Mr. CUTTING (Cook). Now, if the laborer has left the employment because the conditions are not satisfactory, in accord with a perfectly settled right, he has no further interest in that employment?

Mr. WOLL. I would not say he has no further interest; he has no property right, I say.

Mr. CUTTING (Cook). No property right of any sort?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). He leaves the employment voluntarily, and then we come to the third provision of your suggestions here.

Mr. WOLL. Yes.

Mr. CUTTING (Cook). I can follow your though that labor is not a commodity, that laborers have a perfect right to combine for all lawful purposes, and so forth, but I am at loss to understand by what right the laborer, having left the employment, having no further property right in the institution in which he has been employed, has the right to picket the establishment which he has voluntarily left and try to prevent the performance of its functions by the organization which controls that factory?

Mr. WOLL. Of course, you agree with me that the employer has no right to labor, that is, the mere possession or physical asset?

Mr. CUTTING (Cook). I grant that.

Mr. WOLL. Then, of course, it leaves the market open, free,

Mr. CUTTING (Cook). Yes.

Mr. WOLL. They may compete for the service of labor.

Mr. CUTTING (Cook). Yes.

Mr. WOLL. The workmen through their organization, claim for themselves the same right that the employer exercises of soliciting the service of his fellow workmen as the employer does to come in his factory, and picketing is only intended to be outside, to remain there and urge all that may apply for work "Come with us instead of going to the other fellow."

Mr. CUTTING (Cook). Come with us and do nothing?

Mr. WOLL. The question of doing something or doing nothing has no legal complication. That would assume wage earners must work constantly, and that is a requirement of law you would answer would be correct, but the premise is wrong.

Mr. CUTTING (Cook). The premise is wrong in this; you are talking about a free contract.

Mr. WOLL. Yes.

Mr. CUTTING (Cook). Now, is it a free contract if the parties who have no longer any interest in the business get together and prevent the carrying on of that business, not for their own immediate benefit, but to coerce him into making a contract which he does not wish to make, is that a free contract?

Mr. WOLL. The question of picketing—first of all I want to say that the employer has no right to labor any more than that employee has a proprietary right in the factory.

Mr. CUTTING (Cook). Absolutely granted.

Mr. WOLL. Then we claim for ourselves the same right that you claim for a businessman, to solicit the service of others to operate.

Mr. CUTTING (Cook). I am claiming no right for anybody.

Mr. WOLL. I didn't get your question.

Mr. CUTTING (Cook). The point is this, the object of picketing is to coerce the employer into paying wages or giving conditions which he does not wish of his own volition to give. He is not permitted—I am not talking about violence now——

Mr. WOLL. I understand.

Mr. CUTTING (Cook). You will disclaim that very properly.

Mr. WOLL. Yes.

Mr. CUTTING (Cook). That does not belong in this affair, but it has come there, as we all know, but undoubtedly without the connivance of the employer or employee, but you place a line of pickets around the place to head off anybody from going in there and working; isn't it the right of any workman to work if he wishes to, or leave if he wishes?

Mr. WOLL. That is his right, and picketing does not interfere with that right.

Mr. CUTTING (Cook). I understand it is persuasive picketing we are talking about now.

Mr. CUTTING (Cook). But you are persuading somebody that would ordinarily work for the employer and supply the place you have voluntarily left?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). By what right do you do that if you have no further interest in that institution; you have left it, it is gone; you have a right to go where you please; if the employer cannot follow the discharged employee and prevent his employment, then by what right do you follow the employer and prevent him from carrying on his business?

Mr. WOLL. From the same right that the employer, when men give up their employment, his establishment seeks to alienate those employees from their association and seeks to get them back; that right is exercised by the employer in the same manner.

Mr. CUTTING (Cook). Did you ever hear of an employer picketing his men?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). I never did.

Mr. WOLL. You are not engaged in the industrial field?

Mr. CUTTING (Cook). No, I am not; that is why I am asking these questions. I am not at all.

Mr. WOLL. May I say to you that picketing has been indulged in by employers by sending their representatives, detective agencies, to the union meeting halls and to the homes, for the purpose of persuading those men to give up their association and to come with the employers?

Mr. CUTTING (Cook). I am not prepared to dispute you, because I know nothing about it, but in either event I cannot see the logical situation or why men who have left the place and have maintained no further interest or property rights in it, have a right to interfere with the proprietor thereof from doing the things which he may legally, namely, employ such other people that choose to come to him or that he chooses to bring there.

Mr. WOLL. Yes.

Mr. CUTTING (Cook). I cannot understand it, if there is no property right.

Mr. WOLL. I will not agree with you that the wage earner who has given up his employment may not be further interested in the establishment. He may not have a propriety right, but he certainly has an interest and it is his unqualified right to apply to his fellowworkmen not to go to work with another man, not to go with that fellow.

Mr. CUTTING (Cook). That is, if they have an interest in his business, he has an interest in their's, to a certain extent, because we are talking about an absolutely reciprocal free contract.

Mr. WOLL. Absolutely, yes.

Mr. CUTTING (Cook). But suppose he exercises his right of discharge and discharges these men and all business relations cease between them——

Mr. WOLL. Yes.

Mr. CUTTING (Cook). By what right do they interfere with the performance of his business when he does not, if he don't interefer with them going where they please and doing as they please? Now we are speaking of absolute rights.

Mr. WOLL. As I say, the wage earner—there is quite a difference between interest and propriety right, and the wage earner, whether he be

discharged or quits—because the conditions of employment were not to his liking, he has the unqualified right to solicit his fellow-workmen not to seek employment there and associate with him so they may secure the conditions of employment they desire.

Mr. CUTTING (Cook). That is, that one party to the contract dictates the terms that the other party to the contract, if he is going to do any business, must adhere to, is that it?

Mr. WOLL. If you want to call it coercion, although I would not agree with you on that terminology, where two or more combine to get improved conditions, which an individual by himself could not secure, and our contention is this, when industries are organized as they are today with thousands of stockholders, investors building up large artificial organizations, that the employee should have the right to associate with himself all men of that craft or calling in order that he might place himself on a more fair basis for equitable contract, and of course if he cannot solicit the membership of others to that, his right of organization is denied.

Mr. CUTTING (Cook). I cannot agree with you on that proposition. If he does not interfere with the people who wish to take employment with the discharging employer, he feels that he will not get back there himself and therefore he is taking into his hands a means of coercing the employer into agreeing to a condition of things which he does not approve of. Now, that is the object of the picketing, it seems to me. If I am wrong, I want to be set right, and it seems to me that the free contract idea is directly in the teeth of that practice and must necessarily be so; if the man who is discharged or leaves voluntarily goes away and seeks other employment, and the employer seeks other employees, then they are on a perfect equality, there is no question about it, neither one of them trying to interfere with the business of the other, the man saying nothing to his employees or preventing them from getting better conditions other places in other employments at all, and they doing nothing to prevent those who are willing to go to work under his conditions at his wages. What is there inequitable about this? I am not arguing. I am inquiring.

Mr. WOLL. Of course the inequity comes by this, that to not allow the wage earners, through their association, to seek and secure the membership of those who apply to those positions would be a denial of the rights of organization and they certainly have a right to ask these men to join their association for the purpose of securing improved working conditions.

Mr. CUTTING (Cook). Yes.

Mr. WOLL. Of course, you say that is interference.

Mr. CUTTING (Cook). That don't get to the point, as I see it. Suppose they do not want to do that, suppose they do not want to join.

Mr. WOLL. There is no power that can compel them to join.

Mr. CUTTING (Cook). Well, we will assume that.

Mr. WOLL. Then they go to work there.

Mr. CUTTING (Cook). For the man who wants to employ them?

Mr. WOLL. Yes.

Mr. CUTTING (Cook). Still there is a cordon of men endeavoring to stop him from going to work, do you consider that is fair?

Mr. WOLL. I do not know any place where it is stopped. If violence enters in it, that is another proposition.

Mr. CUTTING (Cook). You do not advocate violence, which often happens, whether on one side or the other side, I am not saying.

Mr. WOLL. Perhaps on both sides, but there is no transgression of the right of anybody, but it is within the right of the workers to stand at the place without interfering with the traffic or the people and by peaceful persuasion induce these workmen to join their organization.

Mr. CUTTING (Cook). For the purpose of bringing about a contract——

Mr. WOLL. Certainly.

Mr. CUTTING (Cook). ——which is not acceded to by the employer.

Mr. WOLL. Yes.

Mr. CUTTING (Cook). But has been determined upon by one of the parties to the contract.

Mr. WOLL. Yes, sir; that is equitable.

Mr. CUTTING (Cook). Is it?

Mr. WOLL. It certainly is.

Mr. CUTTING (Cook). Is it equitable for the proprietor, as you have said in your speech sometimes, to starve out his employees just because he can get men for lower wages?

Mr. WOLL. That is his right.

Mr. CUTTING (Cook). What?

Mr. WOLL. That is his right.

Mr. CUTTING (Cook). That is his right, but it is not his duty or the privilege of a man of conscience.

Mr. WOLL. It is his right.

Mr. CUTTING (Cook). It is his right to do it, I suppose.

Mr. WOLL. And that is what we are asking for. The question of right and the question of wisdom or unwisdom of exercising a right, or to what degree, are two quite distinctive questions.

Mr. CUTTING (Cook). Then you think it is perfectly right, after all relations have ceased between employer and employee, that the employees should still remain where they are not employed, and should attempt to prevent other people from taking employment which they have voluntarily left?

Mr. WOLL. Yes, I believe it is perfectly within their rights.

Mr. CUTTING (Cook). That answers my question.

Mr. MACK (Carthage). May I ask the gentleman a question?

THE CHAIRMAN. With his permission, yes.

Mr. MACK (Carthage). For the purpose of information, and for the purpose of placing, as I understand, before this Convention, a more just and fair proposition, I want to ask if provision 232 and all kindred provisions gotten up by your organization are not for the purpose only of regulating conditions between the employer and the employee?

Mr. WOLL. You ask if our proposals are for the purpose of——

Mr. MACK (Carthage). 232?

Mr. WOLL. Yes.

Mr. MACK (Carthage). Is not for the purpose purely and only of regulating conditions between the employer and employees?

Mr. WOLL. The purpose of our proposals are to bring about an equality between employer and employee in the discharge of their relationship, and taking away the opportunity and power of the equity courts in interfering in the adjustment of those relationships.

Mr. MACK (Carthage). Now, if that is true, then your organization would not insist, as I understand, that that be carried to such an extent that the innocent public, the third party, should suffer by reason of that; you do not take any such position?

Mr. WOLL. Let me say so far as the suffering of the innocent public is concerned, the wage earners represent, if there is some definite concrete conception of what is meant by public, then I say the wage earners represent the greater portion of the public, because the great mass of people are wage earners, and they are the ones that have the larger families, so that the great bulk of people represented are represented by the wage earners, and surely nothing that labor conceives or desires is intended to do injury to its own people.

Mr. MACK (Carthage). You do not exactly grasp my question or I do not grasy your position. My position is this, that if by reason of what might happen, if by reason of a misunderstanding, which is unfortunate, there shall come about a condition, speaking now neither of the blaming of the employer or employee, but a combination of circumstances growing out of that, if the result of that should be wide spread injury and suffering to the public, you do not want to carry 232 far enough to insist that that condition should be disregarded? I think in justice to your organization if you

feel that way you should say so, so as to put some of us who are friendly to you in a position to go just as far as we can to give you what you want.

Mr. WOLL. May I say to you, so far as the path may be taken as a standard of judgment, all of the things against which we complain—which we ask be denied to the judiciary, have been in force, and despite that legislation, despite that unsurpation of power by the judiciary, these inconveniences have occurred. We feel that if labor is given equal rights, the incentive will be taken away on the part of the employer to suddenly desist from dealing fairly with the representatives, and then in that event all these disturbances will be avoided.

Mr. MACK (Carthage). Now, will you listen carefully to the suggestion I desire to make as to a possible revision which I think should be made to 232 because I honestly desire to get your position, and I know the Convention does, and that is this, adding the following: "Provided, however, that the above shall not interfere with the right of the executive branch of the government intervening in an emergency, for the protection, health and safety of the general public." Would that addition to that provision be satisfactory to your body?

Mr. WOLL. Of course I can only answer for myself.

Mr. MACK (Carthage). I desire your answer.

Mr. WOLL. Just repeat that again.

Mr. MACK (Carthage). Shall I read it again?

Mr. WOLL. Yes.

Mr. MACK (Carthage). "Provided, however, that the above shall not interfere with the right of the executive branch of the government intervening in an emergency for the protection, health and safety of the general public."

Mr. WOLL. First of all, I do not quite understand how and what you mean by that. You will delegate to the executive branch of the government that power?

Mr. MACK (Carthage). I would say that the executive branch of the government, after that addition, could only exercise such power as was given by general law and by the legislature.

Mr. WOLL. Do you mean by executive order?

Mr. MACK (Carthage). I say instead of the employer moving as against your body that the general government under a proper law framed for that purpose for the protection of the public, might act in the emergency.

Mr. WOLL. In other words, you would enact in there a procedure which Attorney General Palmer followed in the recent miners' case?

Mr. MACK (Carthage). I would not.

Mr. WOLL. And if that is your thought in mind, I certainly object.

Mr. MACK (Carthage). I do not have that in mind; what I have in mind is this, that your organization, I believe, if we could understand each other and if our language is such that we could get together mentally, I think we agree perfectly in this. I may not have expressed it in this provision, but your body is not coming before this Convention and asking in any way for that which is given you as a protection against the selfish motives of your employer, shall in any way be used as an instrument or means of damage to a great extent the suffering of the public?

Mr. WOLL. I think the thought you have in mind is to substitute in place of public opinion upon which we have rested heretofore, to have men temper their judgment, to substitute in place of that the dictum of law and authorize some agency of government to exercise that compulsion, then I should say to you that that would inevitably lead to the destruction of freedom as a contract, violation of the principles of ownership, as well as liberty, because the minute you substitute public judgment by dictum of law, that minute you destroy our present conception of government, and I ask you "Is it not best perhaps to have public suffering and inconvenience, if they must come, rather than turning over the principles of the democracy of our government as founded?"

Mr. MACK (Carthage). I agree perfectly with you in your suggestion that public opinion must finally prevail, but in a republic it must be the laws in final analysis.

Mr. WOLL. Yes.

Mr. MACK (Carthage). But I insist there must be some place along the line that strong-arm government must not prevail, that this misunderstanding between the employer and the employee injures the government so it will be helpless, and this condition mentioned in 232 must not be used to bring about a revolution.

Mr. WOLL. May I enlighten you on that point?

Mr. MACK (Carthage). I would be glad to hear you.

Mr. WOLL. The idea of substituting in place of public opinion some compelling influence in society or government to prevent interference in industrial production which might be hurtful to the public in general. We have in Australia, of course, the compulsory arbitration system predicted upon that viewpoint. Mr. Harry W. Bratton, formerly the Australian Commissioner to the United States, in commenting upon their system of industrial legislation and our system of industrial legislation offers this: He advises the statesmen and the employers of his country that the American system of voluntarily getting together to adjust labor difficulties is so much better than their system of compulsory arbitration. Speaking of industrial courts, he said, "I have come back to Australia convinced that the whole system of compulsory arbitration is based on wrong principles. I would like to see the whole Australian arbitration court structure swept away, which would make way for a system which would allow employers and employees to get together and enable each party to come to a proper understanding of those peculiar difficulties." Now, there is a country where they have substituted in place of public opinion the compelling force of government, and this is the opinion of Mr. Bratton, who has been the Commissioner to this government in that legislation.

Mr. MACK (Carthage). Now, just one more question and I am done. Can you yourself make any suggestions to meet the difficulty that exists, and under which we, who are friendly to your body, will be glad to go as far as the safety of the country will permit——

Mr. WOLL. May I make one suggestion?

Mr. MACK (Carthage). Just let me finish my question. Give me a suggestion as to what should be put in this proviso which would meet the general objection and difficulty under which we labor when we come to enter the domain of the difficulty of the employer and employee, and say that is a matter between them, that when they invade the domain of public health and safety, there must be some higher power which must step in and if not enforce public opinion, must insist that the safety, health and comfort of the country be first taken care of. Have you any suggestion?

Mr. WOLL. I want to make this statement first, without question, that in a democracy we of course must pay for the price of freedom. We must pay for errors committed, whatever they may be, trusting upon proper education to avoid those errors in the future. As for a suggestion to avoid industrial struggles, all of the strikes that have been taken place indicate that the preponderance of strikes are predicted upon the refusal of the employers to deal collectively with their workmen, and that invariably the employers represented corporate interests or combinations. Now, if that is true, I would first suggest in granting corporate power to any group of persons to undertake industrial, financial or other enterprises in which the lives of others are involved, through contractual relations that they be prohibited from denying those with whom they deal equal rights of organization, and equal rights of representation, chosen by themselves. In other words, make it impossible for corporate interests to deny the working men to organize or deal with their representatives. That first of all would dispose of the preponderance of strikes.

Mr. MACK (Carthage). That would be your solution?

Mr. WOLL. That would be one solution. I have no panacea for all industrial ills, and I fail to conceive of any human mind devising any rule or process that will forever do away with difficulties, misunderstandings and friction, but that is one point upon which great industrial disturbances have been had. Had Gary recognized the steel workers, had he given the

employees the same right which he exercised, representing a gigantic organization, that struggle would have been avoided. It was not a question of wages and hours, it was a question of laying down things and having them considered through representatives of their own choosing. The coal strike was the same, the employers taking the position, "Unless you call off certain acts, we will refuse to meet with you, or deal with you."

Mr. MACK (Carthage). That would be your reply to the suggestion?

Mr. WOLL. Yes, sir. I say I have no perfect remedy, and I do not know that the human mind has yet conceived or devised any system of law or government as a panacea of all ills. We have been dealing with the question of crime for ages and ages, but crime is going on today just as it has ever been.

Mr. REVELL (Cook). Do you think strikes are an ill and a menace which we ought to get rid of if we could?

Mr. WOLL. I would not use your words, saying strikes are an "ill" or a "menace."

Mr. REVELL (Cook). Cut out the "menace."

Mr. WOLL. I say strikes are undesirable, and by no one are they entered into more reluctantly than by the trade organizations themselves, and the stronger the industry is organized, the less danger there is of strikes.

Mr. REVELL (Cook). Then I understand that this proposal that you have been suggesting, it is your idea that strikes will be diminished in numbers if the Convention or the legislature follows out and makes it a law?

Mr. WOLL. I believe that strikes will be diminished when employers will recognize the same rights in their employees——

Mr. REVELL (Cook). No——

Mr. WOLL. Let me finish. ——that they exercise for themselves, and when this Convention will say, and the people will say, you cannot have the powers of government to sustain you in your refusal to give these men the same rights that you claim for yourself and exercise for yourself; and I further believe that the stronger the wage earners are organized, the more perfect their organization is, the less danger there is of strikes, and mind you, that strikes are not because of the volition of the wage earners. Most times they are aggravated and they are the result of aggravation on the part of the employers.

Mr. REVELL (Cook). Do you consider it wise on the part of the people or of the legislature to continue in an effort to find something which will lessen, if not do way, with strikes and walk-outs?

Mr. WOLL. We believe the method of evading that, of course, is in organization. So far as having the State voluntarily assist groups of workers and employers, or individuals, offer their assistance, I believe that is all right, but not to compel the use of that machinery.

Mr. REVELL (Cook). But was I right in my understanding of what you said, that everything that has heretofore been done by legislatures or by states or by bureaus or states has failed in meeting this ill?

Mr. WOLL. I would not say that at all.

Mr. REVELL (Cook). And any further efforts by legislatures would also prove unsuccessful, didn't I also understand you to say that?

Mr. WOLL. If you understood me to say that, you misunderstood my sentiments or statements. I say so far as voluntary assistance, that is on the part of the government, or for the voluntary assistance, that is desirable, but may I call your attention to this fact, that while we were at war with Germany and Austria, there was no compulsory service required in industry. There was established the National War Labor Board, and I was fortunate enough to be a member of that board. We did render invaluable service both to employers, to wage earners and to society. I think we rendered incalculable help in the promotion of industrial peace and in securing a maximum of activity, but our effort was purely voluntary, not compulsory. Parties were not required to come before us. The records will show that out of a thousand some odd hundred of cases, only about three hundred or so were voluntary submissions and the others were only ex parte cases, where recommendations could only be made. So during the

most critical period of our nation, the nation did not deem it necessary and did not find it necessary to use the compelling power of State to continue productivity, but used purely its advisory and helpful agencies, and I would be remiss in my duties as a citizen to say that that was not done and did not prove helpful.

Mr. REVELL (Cook). Then I understand in your answer to the question of the last delegate that asked you some questions, that this proposal is the only thing you have in mind, or those whom you represent have in their minds, to lessen the difficulties which now exist between employers and labor. In other words, you have no other plan?

Mr. WOLL. No.

Mr. REVELL (Cook). To give us that we could do something constructive on with a view to getting rid of what you and I recognize as one of the greatest economic wastes of today, namely, strikes and the walk-outs.

Mr. WOLL. May I answer your question in this way, that this is a Constitutional Convention, which is not charged with the duty of making or preparing legislation, that it is charged with the work of formulating fundamental principles which shall hereafter be exercised by the various departments of the government. In other words, your Convention is to declare for fundamental things rather than enter into the field of specific legislation, and hence we have refrained from introducing any thought of that character. At the conference called by the President, held at Washington some time ago, we did propose a plan which we believed would be helpful in maintaining industrial tranquility and remove industrial friction. I can advise you of that plan, but it is not one that is for acceptance by a Constitutional Convention. It is a plan which the National Government could encourage for the voluntary acceptance of both employer and employe.

Mr. REVELL (Cook). I thoroughly understand the idea, but, as reasonable thinking men here, we are hardly likely to put anything into the Constitution which might not or could not be workable under some plan or other. Could you give us briefly the idea that you have got in Washington, as briefly as possible?

Mr. WOLL. The plan that we submitted to the Industrial Council Conference called by President Wilson was this: first a right to organize and bargain collectively through its chosen representatives for encouragement through the Department of Labor; the organizing of the industry both on the part of employers and on the part of employees; the formulation of joint industrial councils on a national basis; these joint industrial councils to be charged with the duties of agreeing voluntarily upon standards and relations which should guide the industry and conditions of employment, and that the Department of Labor or National Government should voluntarily give to that joint council whatever aid from a technical standpoint or any other viewpoint it would be required to have to serve those means, feeling that we believe greater formulation or organization through necessity follow greater responsibility, and with it a more temporizing and adjusting of difficulties, which would remove controversies in small isolated fields, because the voluntary adjustment which now prevails in the printing industry and others would be referred to the Industrial Councils where it would be free from local prejudices, and voluntary arbitration courts would follow. That is briefly the plan.

Mr. McEWEN (Cook). I had the pleasure of appearing before your War Labor Board on a voluntary arbitration. We acquiesced to everything the board proposed, and we went home feeling we were great patriots, but we lost our position just the same, but I want to ask you three or four questions to get your idea on the scope of this section 3. We use the words "strike" without any qualifications, either by adjective or any purpose by which it might be compiled. Do you consider such a strike as is contemplated there should be a strike for any reason which a man or group of men feel justified in going out?

Mr. WOLL. Yes, excepting to use the strike weapon as a means of compelling political reform, and of course which is now held to be illegal, by the State Constitution and by National Government.

Mr. McEWEN (Cook). You except one object of the strike. Do you include in that matters or purposes beyond the subject of wages and working conditions?

Mr. WOLL. Wages, hours, working conditions, unfair discharge of men violation of agreements entered into.

Mr. McEWEN (Cook). Would you say that if a group of working men belonging to a union were employed in a plant and there were non-union men working there, we will say, under individual contract with the employer, which had not expired, that a strike would be justified or contemplated by section 3 where a demand was made by the union upon the employer to discharge these non-union men and break the contract with them, and that the man refused?

Mr. WOLL. Of course I would not put it in that light. I would say they would have a right to give up their employment, yes, and to strike.

Mr. McEWEN (Cook). If they quit together, that would be a strike?

Mr. WOLL. Yes, although some gentlemen try to make a distinction —pardon me.

Mr. McEWEN (Cook). That would be requesting the employer to break contract with the other men, and in that respect it would be coercive, and regardless of the rights of the other men.

Mr. WOLL. Yes.

Mr. McEWEN (Cook). That sort of a strike is contemplated by section 3. Doesn't that open up the subject of the open shop and the closed shop?

Mr. WOLL. No, I don't think it does, unless you want to inject it into it, but the question of the open shop and closed shop, may I say to you that the closed shop is the shop in which no union man can work?

Mr. McEWEN (Cook). Yes.

Mr. WOLL. And may I also say to you that the employer has the right and even the law cannot interfere with him, of saying, "You shall not discriminate against certain men," and so if the law claims that it is right for him, that he may be free to discriminate or not to discriminate by reason of the thirteenth amendment we contend we have the same right of striking or not striking because of the employment of union or non-union men.

Mr. McEWEN (Cook). An employer exercises his discretion by refusing to hire or to longer continue the employment of a particular man.

Mr. WOLL. Or men.

Mr. McEWEN (Cook). And his motives might be the man was a member of a union?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). That is the limit of his right. You would not say he would have a right to go to the grocery man and say, "Do not sell that man anything to eat, or let his family have anything," or tell the coal dealer not to let the man have coal, or to follow him in any way like that?

Mr. WOLL. Isn't that what is going on, excepting instead of goin to the coal man and grocery man, you go to the financier, to the banker and say, "if the man signs up with the union, do not give him any further credit." Isn't that what is going on?

Mr. McEWEN (Cook). I may say "yes" or "no" to that?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). And still that only leads me away from my question, which is, "Has the employer—do you concede the employer that right; is there anything fair or just in that?"

Mr. WOLL. No, I see nothing to interfere with him doing that.

Mr. McEWEN (Cook). That is not the question here; the question is, "Is it right?"

Mr. WOLL. What may be right and what may be the law are two different things.

Mr. McEWEN (Cook). Do you think it is the law?

Mr. WOLL. No.

Mr. McEWEN (Cook). Then do you think it is right that he should pursue the man?

Mr. WOLL. I may believe that he ought not to do it by my standard of morality and judgment of good and right and wrong, but I see nothing in the law to prevent him from doing it.

Mr. McEWEN (Cook). It seems to me we are still getting away from what I am trying to get an answer to, and that is, whether that is a thing that is right and which we can recognize even to the extent of conceding the working man a method in which he might rightfully fight in the same way. Shall we start conceding that the employer does those things, and that he is right in doing them, and that he cannot be checked and therefore the only square thing to do is to give the working men a right to throw the brick to——

Mr. WOLL. I say the employer does do that, but may I say what society believes is right. You are leading to the boycott situation or blacklist situation. I am reminded of the peace treaty and the covenant of the league of nations, where the boycott is held to be right to bring about a correct condition of a recalcitrant nation, so as far as I can see today, society recognizes the boycott as a proper weapon.

Mr. McEWEN (Cook). Do you mean society does, because of that being contemplated in the peace treaty?

Mr. WOLL. Yes, sir.

Mr. McEWEN (Cook). I might debate that with you, but we don't get anywhere, because I do not recognize the right of an international court to provide a system of morals that is going to govern my neighborhood, but what I want to get at, and coming back to the same question again, "Is the employer right?" May we start out as a basic proposition that those things are and will be, and that they cannot be checked; therefore you start with that as one of the foundations, that the employer has the right to do those things and we must recognize he has the right. Do you think we can start that way? Supposing you answer that "yes" or "no" and then make your explanation.

Mr. WOLL. That is like asking me to answer the question "Have you stopped beating your wife."

Mr. McEWEN (Cook). No, is it right or wrong, not what you have done. If I asked you whether it was right for you to have done something, or for me to have done something, or stopped doing something, then your parallelism would be correct, but the question is, "Shall we accept that as a fundamental and start off at that point?"

Mr. WOLL. I say to you as to what has been and is today, the employer is exercising that right.

Mr. McEWEN (Cook). You and I will agree, won't we, that that is not right. It don't make for good feeling, good citizenship, good business or good anything?

Mr. WOLL. Yes. Now, how are you going to stop it, then?

Mr. McEWEN (Cook). Let us get the principle settled first and then we can go further.

Mr. WOLL. But the remedy is quite a different thing.

Mr. McEWEN (Cook). We are agreed that that is wrong.

Mr. WOLL. That is, you assume we have agreed.

McEWEN (Cook). What?

Mr. WOLL. That is, you assume we have agreed.

Mr. McEWEN (Cook). Why I thought you would not contend that that was right. Do you?

Mr. WOLL. I say to you it is being exercised and is being done today?

Mr. McEWEN (Cook). And you decline to say whether it is right or wrong?

Mr. WOLL. I say this, as long as one party to a controversy may exercise those weapons, the other must also have the privilege of exercising them.

Mr. McEWEN (Cook). Now, I have asked a question about 15 times, and if you have done your best I have done my best.

Now, do you contend for the right of the sympathetic strike?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). As a legitimate object?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). And that a union in San Francisco might strike to assist some labor dispute in New York, if they consider they are accomplishing something by doing so, or even if they do not?

Mr. WOLL. I say it is their right in the exercise of their right. The question of whether it ought to be exercised in this case or that case, is a different question.

Mr. McEWEN (Cook). Yes, I concede that. I am not disputing that.

Mr. WOLL. You are asking me about the right and then you are asking to apply it, and then ask me whether that application is right. Principle is one thing and application another.

Mr. McEWEN (Cook). What I am trying to get is whether you applied that in all cases; if you say yes that answers that line of questions.

Mr. WOLL. The individual should use their own judgment and there ought to be no compelling power to say you cannot use it.

Mr. McEWEN (Cook). Do you believe in the right of the union to work for the closed shop and the rights of the union to federate into various groups and divisions, bringing it up to the national group? I assume you do.

Mr. WOLL. If you will change your wording and leave out the closed shop and say the union shop, I will agree with you.

Mr. McEWEN (Cook). Union shop. I understood it to mean the same thing.

Mr. WOLL. Well, it is not.

Mr. McEWEN (Cook). I will accept your amendment. Maybe I am not using the language accurately according to the technique of the union, that the one big, organization is a proper and useful object toward which labor should aspire and thrive?

Mr. WOLL. My dear sir, your first question was to this effect, shall labor organize into its various trade unions, may they then federate into a larger group and then they follow that out, do you believe in the one big union?

Mr. McEWEN (Cook). No, I said one big organization.

Mr. WOLL. One big organization?

Mr. McEWEN (Cook). Yes.

Mr. WOLL. I do not know what you have in mind when you speak of the one big organization.

Mr. McEWEN (Cook). I want to straighten it out. I want to get the idea straightened out, so if you would direct yourself to that, I would be obliged.

Mr. WOLL. All right.

Mr. McEWEN (Cook). If you would just tell me whether you believe in a big singly controlled organization and explain the difference between my question and the one big union.

Mr. WOLL. You desire me to explain it.

Mr. McEWEN (Cook). Yes, I would be glad to have you explain it.

Mr. WOLL. So far as the one big union proposal is concerned, and upon which the Industrial Workers of the World are founded, I am not in accord with that class of organization. The organization which I deem best is, of course, for each trade to organize its own particular organization, so that its representatives may deal with their employers directly, having an accurate knowledge of the intricacies of the trade and the requirements and standards which are best. I believe that these organizations should be federated with each other, as the 48 sovereign States are federated into the United States government, but I should be opposed to this national federation, as the American Federation of Labor is, to give it controlling power on things over trade matters in which these various trade organizations are directly concerned, and the American Federation of Labor is founded upon that idea of not usurping or invading the power, control or destiny of the various international trade movements, but that is a judg-

ment what is best, and I do not think by law you could define a particular form of organization.

Mr. McEWEN (Cook). I have read and possibly been illy advised that the American Federation of Labor might, under some conditions, call a strike of all through its groups in the various activities in which you are engaged.

Mr. WOLL. May I correct you at this moment on that? The American Federation of Labor has no authority of any kind to either direct the calling of a strike or have anything to do with a strike excepting in an advisory capacity.

Mr. McEWEN (Cook). If the American Federation of Labor advises a sympathetic strike, we will say the Gary strike, any local matter, large or small, and it were followed by the different railroads and other groups which would be effectual to tie up the industries of the country——

Mr. WOLL. Yes.

Mr. McEWEN (Cook). In such event, if all of the industries of the country were stopped, do you not believe that that would be such a power as would give the controlling leaders of labor the power to demand anything in government, or changes of government which they might think to their advantage?

Mr. WOLL. I should not.

Mr. McEWEN (Cook). And enforce it by reason of the general distress and paralysis?

Mr. WOLL. Of course, I first want to say that the American Federation of Labor has no control, has no authority to direct the calling of a strike or anything to do with a strike excepting it may advise. And most generally—as a matter of fact, in every instance, I know of—it has advised against calling a strike rather than for the calling of them.

Now, there is that possibility, and as our industrial system grows and develops itself, it is going to be more dependent upon labor. There is no question about that. As our industry develops, becomes more complex, everything becomes more dependent upon human labor and service. There is no question about it.

Mr. McEWEN (Cook). Don't you think, confronting such a tremendous force, that this Convention ought to think deeply on the subject of whether there is some way of deciding equitably upon the questions that are liable to shake the whole structure of this government if carried out, the legitimate results of the strike?

Mr. WOLL. To avoid just such a cataclysm as you have in mind it cannot be done by making slaves of men, by taking away their freedom, by restricting their activities, by depriving them of the same opportunities that all other citizens enjoy. To the contrary, an attitude of that kind will hasten that social and industrial cataclysm. Now, the only way that persons can be made to judge matters right is through good will, by fair treatment, by equality before the law.

Mr. McEWEN (Cook). I could agree with you in a great deal of what you said here today, but may I call your attention to the fact that this government is built upon the idea of certain restraint, and to some extent the people are restrained, because power without restraint exercised at the will of one man, or the will of a group, any well thought out idea might work unjustly and tyrannically. Don't you think there are just lines that labor would be willing to be limited upon with regard to the exercise with the weapon of strike?

Mr. WOLL. Of course, I cannot conceive of the restraint you have in mind that would be just.

Mr. McEWEN (Cook). Some limitation upon the sympathetic strike, for instance, not permitted to extend beyond certain groups in contact with the particular controversy.

Mr. WOLL. I do not see how you would get anywhere with that, and I certainly would not approve it.

Mr. McEWEN (Cook). Change that subject. Suppose a union in the development of the working idea should demand, as plenty of them do now,

or think they should have a voice in the management of the plant or place where they are employed, not merely with regard to their working conditions, wages and hours, but with regard to the carrying on of the business of the company, the marketing and selling, the credit, finances, distribution of profits, and so forth. Suppose the workman comes to that idea? Would he be justified in using the strike to accomplish that, under Section 3?

Mr. WOLL. Under Section 3?

Mr. McEWEN (Cook). Yes.

Mr. WOLL. I think the men would have the right to quit, yes.

Mr. McEWEN (Cook). If the union was powerful enough in control, it might compel the acquiescence in the demand and that would be legitimate exercise of the right to strike?

Mr. WOLL. Well, I cannot conceive of such a situation as you bring up, but if there should an occasion arise I would say, "Yes."

Mr. McEWEN (Cook). Would you exempt all strikes brought about under Section 3 from the charge of conspiracy?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). From any criminal prosecution?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). Don't you think it would be a part of better legislation if the conspiracy law was still permitted to apply to those cases where the purposes of the strike is what is denominated unlawful in law; do you want to go that far?

Mr. WOLL. It all depends, of course. The principle I would not seriously object to. It would all depend on what would be declared unlawful. The purpose might be declared unlawful.

Mr. McEWEN (Cook). I observed in the newspaper account of some of the indictments returned at Indianapolis the other day, that it is charged that the strike was an overt practice somewhere or other, that the strike was an overt act, done under and in pursuance of the conspiracy to raise prices. Now, without regard to the fact in the case (I don't know anything about that) would you say that a strike which was called for the purpose of increasing prices which has been held unlawful in Indianapolis, and I don't doubt it is unlawful under the Federal law, would you say such a strike ought to be exempted from criminal prosecution under the law in Section 3?

Mr. WOLL. I do not know of anybody that has yet seen the indictment that has been found in the Indianapolis case, and I don't know anything about the charge or the conditions upon which it is founded. Of course, it is merely an indictment. It is not yet proven that it has been an unlawful strike. The charge has yet to be proven.

Mr. McEWEN (Cook). I am not saying about the proving of the charge. I am just considering it as a proposition of law. I am informed by one of my colleague sitting on my right that he has read the indictment, and that the indictment is conspiracy under the Federal law.

Mr. WOLL. The Lever Act, I presume.

Mr. McEWEN (Cook). And one of the overt acts is the calling of the strike?

Mr. WOLL. Yes.

Mr. McEWEN (Cook). Now, without regard to the fact, do you think that such a strike should be exempted as it would be by the language of Section 3?

Mr. WOLL. Why, it is quite difficult to answer your question for this reason, that to say that a strike per se to make a certain increase of a commodity would, I think, go beyond the purpose of the strike, but I can also say, under that interpretation, the strike for higher wages, or improved working conditions, might raise the cost of production and thus compel a rise in the price of the commodity. It is quite difficult for me to distinguish how you are going to separate the two.

Mr. McEWEN (Cook). Well, I asked a question before and gave this as an illustration. But, assuming that there was an unlawful purpose in the strike, that is, it was to accomplish something forbidden by the law,

either on our statute today, or which may be put there in the years to come. Now, assuming such a condition, would you want the working man exempted under Section 3 from any consequences, or from any criminal consequences?

Mr. WOLL. May I say to you this: I think I understand what you have in mind. If two or more of a trade union would, through its collective action, undertake to commit a crime under the method of strike, should we then be exempt from punishment?

Mr. McEWEN (Cook). Yes.

Mr. WOLL. I should say we would not be, and this section does not intend that. Certainly we ask not the privilege of doing wrong things or violating the law. Does that answer the question?

Mr. McEWEN (Cook). It answers it in principle. It answers it in principle. I hope I have not annoyed you.

Mr. WOLL. That is all right.

THE CHAIRMAN. May I be permitted at this time to make a suggestion?

I am informed by the president of the International Seaman's Association that he is forced to leave at 6:30 and Mr. Woll will be with us after that time, and I would suggest at the pleasure of the Convention to allow this speaker to go on now, and the questions to be asked Mr. Woll can be asked at a later date. Is that all right, gentlemen? If there is no objection I will introduce to the Committee of the Whole at this time Mr. Andrew Furuseth, president of the International Seaman's Union, here not only representing the State Federation of Labor, but the American Federation of Labor and Seaman's organization as well.

Mr. FURUSETH. Mr. Chairman.

THE CHAIRMAN. Mr. Furuseth.

Mr. FURUSETH. Mr. Chairman and members of this Convention: Practically the whole question here is the question of whether there is going to continue such individual human liberty as will make social evolution possible. I have looked at the different proposals that are before this Convention with reference to stopping of strikes. Stripping the whole question to the bare bone, that is the question that you are discussing. That is the question that I came here to discuss.

I represent, gentlemen, a class of men who were denied the power to strike. While freedom of locomotion and freedom to quit employment was granted to every other American, it was withheld from the seamen, with the result that five years ago less than ten per cent of the seamen who sailed under our flag were native Americans or citizens, if we exempt the officers of the vessels, who must under the law be citizens. The seamen were held in the shackles of their status to such an extent that it was impossible for them to follow their upward trend of society. While the wages of the ordinary mechanic doubles, trebled, quadrupled and sometimes quintupled, the wages of the seaman stood still; while every other mechanic, if he was a prudent, careful, industrious man, had the chance to become the father of a family and to have a home of his own, the status in which the seaman had been placed, or rather in which he had been compelled to remain, had brought about a condition in which not five per cent of the seamen sailing before the mast in your vessels were married men.

For that reason I read not only with apprehension but with perfect horror some of the propositions made in this Convention. Men working for the government directly are to be denied the right to quit. In other words, they are to be forced to continue to labor against their will. The establishment of Industrial Courts is proposed for the purpose of determining all the conditions of labor, wages, hours of labor, conditions and everything dealing with labor.

If you adopt some of these things you will thereby create a judiciary which will have all of the judicial powers known to the courts of any part of the world, imitating, I suppose, some of the judiciary power that existed under the Roman Empire, no restrictions, nothing for the judges to respect, except their individual conscience!

There is one proposal to turn over all the relations between employers and employes to the equity power to be dealt with as judges sitting in equity shall think proper. And then finally you have a proposition to establish a State constabulary. Let me suggest to you, gentlemen, if you pass any of the former propositions you will need the State constabulary, and need it bad. There are to be no strikes. That is the end some of you seek. Some way is to be found to stop strikes. Why, gentlemen, there is a very simple remedy for strikes.

There were no strikes in the South, south of the Mason and Dixon line, prior to 1860. There were no strikes there, there could not be any strikes there. But Lincoln in one of his speeches (I think I have got a note of it here, in fact I am sure I have) stated that he was glad that there was some labor that could strike. In other words he was glad that some labor was free. Lincoln believed in that human liberty. He gave his life for that freedom, for this supreme Christian idea.

I fancy, if he could listen to some of the questions that are being put here, and if he could read some of the propositions that are before you, he would likely turn in his grave.

Springfield, Illinois, is the last place on all the American continent where I conceive it possible that questions of that description could be seriously discussed. I said to you that the adoption of these things would be contrary to evolution contrary to Christian evolution. I shall make a short statement that I think will be sufficient to prove that.

When the Nazarene came into the world it was a world in which there were nine slaves, to one free man; in which the Patricians were supposed to have souls and to have come from the Gods directly charged with the duty to teach and to govern the rest. All the others of period civilization were at that time nothing more than the animals are to us. He said "I have come that you shall have more life and have it more abundantly. I have come from Him who is the Father of all men and He therefore looks upon all men as brothers." You can have no orderly, no progressive, no real decent society unless that is fundamentally accepted. And then He taught us how to pray, "Thy kingdom come, Thy will be done."

The Roman civilization refused to accept this great principle and Roman civilization passed out. There are more Roman subjects in Roumania than there are in Italy. That was the penalty. It took 1,300 years for this Christian idea to overcome the old Roman system, autocracy in religion, autocracy in the State, autocracy in industry. The struggle to recognize man's equality before God and his individual responsibility to himself and his fellow took 1,300 years. It was conducted by organizations based upon religious discontent. Then it was finally established through the thirty years war, and it was written into a political document. Men said, "Well, if we are equal before God, why not in the State?" And so the struggle began for the extension of the Christian principles upon the plane of the state, the political plane. It took from that time until the middle of the last century to accomplish that purpose, and such political equality as we have comes as a result of that evolution.

But that phase of the struggle had only concerned itself with two departments of human activity. Our industrial situation continued very much as it had been ages and ages. The industrial employer was as much a king in his own concept as was Louis the 14th in his. This is my business! I am in this business. That was his attitude.

When the Christian concept entered upon the industrial field, it met a power which had grown so great that it led more people than many of the irresponsible monarchs of middle ages did. It was only in spots that the kingly power touched the subject, but this power industrial follows the man to his home, from his home to his workshop, watches over him at the workshop, follows him to his church, watches over him there, follows him to the polls, and watches over him there. And if this tremendous power that is exercised by the industrial magnates of the world is not bridled in some way it will result in the same condition in our occidental civilization that similar conditions produced in the ancient Roman empire. So that when

you ask what is this labor question, what is this labor struggle, what does it mean, my answer is that it is the effort of the concept of fundamental Christianity to enter upon the industrial field of human activity and transform that field into its own image. Necessarily, as the other movements through the religious and political fields took a long time, so, even with the greatest wisdom that we can give and exercise, it must take a long time to develop the right kind of an industrial system corresponding with Christian ethics and Christian ideals must take a long time and much trouble. However, gentlemen, there will be no peace until that is arrived at, and you may choose between that evolution or extension. The penalty for sin against the Holy Ghost is death, and the penalty upon the American people for depriving its working people of their citizen's rights would be national death.

You cannot set aside your own highest ideals in that way. Your own highest ideal is written into the Declaration of Independence and you have to follow that line of evolution. You must keep your sacred promises made to yourself. You can follow it in freedom, in safety, in well being, or you can desert it to be punished by the kind of bloodshed and misery that is now ravishing certain parts of Europe.

What is this equity power that we are dealing with? Working men of Illinois ask to have it limited. What is it? Where does it come from? In a big struggle that extended some centuries B. C. in Rome, the plebians and patricians, after having struggled until they were tired, possibly, agreed to establish the Roman tribunal. The Roman tribune had one power, to veto, to forbid. He was elected by the plebians as a plebian and his office was for one year. To revile him or to accuse him or in any way offend him was sacrilege. He had the right to go into a Roman court and hold up his finger and say "veto," and that stopped the progress of the case, while he still remained a tribune. He had the power to say to the Roman senate "veto," when they were about to promulgate a new law, and the purpose of it always was to defend the weak against the strong.

In Rome it was called the tribunition power. When it was conferred upon Caesar for life, it made Caesar the citizen of Rome, Caesar, the monarch, the sole ruler of Rome. Having the power to forbid, there is no question but from that would flow the power to consult and the people would come to him and ask: "Will you forbid thus and so, will you consent to thus and so?" And he would use his judgment.

Now, mind you, gentlemen, this power was absolute and irresponsible. It is the quintescence of autocracy. It was wiped out in the Western Roman Empire together with the empire itself. It was re-established when Charlemagne was crowned emperor of the newly elected or newly constituted Roman Empire. From him this power was transmitted or assumed by all the different monarchs of Europe, power to legislate, power to execute and power to forbid—all the different powers that constituted all the powers of the Czar of Russia, with the exception, if you please, of religious power which had also been conferred upon Caesar, the Roman emperor, but which the clergy withheld when they conferred upon Charlemagne the other powers.

So that in our race, the Nordic race, you never had absolute irresponsible autocracy until it was established and conferred upon the Roman Tribune.

It was passed down to the kings.

The king, being too busy, transferred it to the chancellor, and so in England you call it chancery law, chancery court, chancery power.

When we split off from England because England used altogether too much of that chancery power over here, we left this power with the equity judge. Read over the Declaration of Independence, you will find that one of the reasons why the colonies revolted was the constant use of the equity power when they should have used the common law.

When we split off and set up a new government we stripped the crown from the brow of the king, but we left the power the prerogative and the sanctity with the equity judge! However, when the equity power came

to us it was so regulated as the result of some four hundred years of struggle in England, that it could be used only to protect property from irreparable injury, when there was no remedy at law.

Now, mind you, the tribune of the king and the person of the king was sacred. To interfere with him was death. The person of the king was sacred. To accuse or villify him was death; but later in less serious things, imprisonment.

The judge sitting in equity is the king, the embodiment of irresponsibility. Autocratic power; it is directly opposed to republican government, or the rule of law. Law is the expression of all the people through the general assembly, through the elected representatives. Equity, as we call it, and the law, and God only knows why, is the expression of the will or the conscience, and the judgment of one man. The two cannot live together; they cannot exist at the same time.

Our government was designed to be a government by law; the law to be enacted by the legislative branch, construed by the judiciary, and administered by the executive.

An injunction is "an extraordinary writ issued out of equity enjoining a threatened injury to property or property rights, where there is not a plain, adequate and complete remedy at law."

The definition of equity is, "The application of right and justice to the legal adjustment of differences where the law by reason of its universality is deficient," or "that system of jurisprudence which comprehends every matter of law for which the common law provides no remedy * * * springing originally from the royal prerogative, moderating the harshness of the common law according to good conscience." In other words, it is the exercise of power according to the judgment and conscience of one man. It was for these reasons that in Great Britain, whence the United States derives its system of equity, as well as of law, the equity power was only where there was no remedy at law. The words "adequate" and "comlimited to the protection of property or property rights, and in such cases plete" have been added in this country. Our judiciary, prompted by able lawyers serving special interests have succeeded in extending it first to add the word "adequate" and then to add the word "complete," and it was long administered in accordance with those additions but today it is administered as if it read "no better remedy at law."

Now, I can perfectly well understand the attitude of the legal profession. If the equity power can be so extended as to control all the relations of employers and employees, and that is practically all human relations today, that will make the legal profession the absolute master of the world; more so than was ever the old priesthood in its palmiest days. I do not say that the legal profession realizes this as a whole by any means, but I do say that there is unquestionably a large amount of the leading men in the legal profession that do.

"When the courts of equity take jurisdiction over and issue injunctions in labor disputes they do so to protect business, which, under late rulings by several courts, is held to be property. These rulings are disputed and condemned by other courts which hold that relations between employers and employees, between buyer and seller, are personal relations and come, therefore, under the police regulations, and as such, are regulated, if at all, by statute or by common law only. If the latter contention be right, and of this we believe, there can be no question, the ruling that makes business property, or the right to carry on or continue in business a property right is revolutionary and must lead to a complete change, not only in our industrial but in our political life.

"If the court of equity be permitted to regulate personal relations it will gradually draw to itself the legislative power. It will, if it be permitted to set aside or to enforce law, ultimately arrogate to itself jurisdiction now held by the law courts and abolish trial by jury." Most of these expressions are culled from the Supreme Court decisions.

The Constitution confers equity power upon the courts by stating that they shall have jurisdiction in law and in equity in the same way that it

makes it their duty to issue the writ of habeas corpus, and in substantially the same way as it provides for trial by jury. Equity power came to us as it existed in England at the time of the adoption of our constitution, and it was so limited and defined by English authorities, that our courts could not obtain jurisdiction in labor disputes except by the adoption of a ruling that labor is property. If business is property in the case of a strike or boycott, and can therefore be protected by the equity court against diminution of its usual income, caused by a strike or boycott conducted by the working people, then it necessarily must be property at other times, and therefore entitled to be protected against loss of income caused by competition from other manufacturers. Business and the income from business would become territorial and would be in the same position of land and the income from land. The result would be to make all competition in trade unlawful.

Of course, there are many business men who look upon this in a superficial way and say, "That is a good thing; that is what I would like. I have got a cut glass and porcelain house here in Springfield. I supply the country all around. I am doing fairly good business as long as I have no competitor. If a competitor comes in, if one of my clerks who knows my business thoroughly can get some money and start a business here, he can take away perhaps half, perhaps more of my business." So he says, "It would be a good thing if I could go to the equity court and get an injunction to prevent him beginning that thing."

Think what it means. What are his boys going to do? They too, could then be prevented from establishing themselves. What are the other people going to do? It leads directly back to the distinct separation of classes that you had in Babylon, Greece and in Rome, and in the early middle ages.

Aside from that, those who are in that particular business, why was it, that you business men asked for such laws as the Sherman Anti Trust law, and the laws to regulate and to prevent unfair competition? It was because you felt yourselves squeezed more by the bigger men. The men who are bigger than you will have a better chance to get the injunction than you. They prevented you a long time from getting the anti combination laws that you all were asking for. The small business man would become nothing but the hired man of some trust magnate.

Gentlemen, you are here dealing with a question that goes to the very root of society. If you permit it to play and develop it will destroy existing society as heat will melt snow. You cannot place the working man in one group, and the medium business man in another group, and have the equity power apply to the working man group, without the court applying to the other, because in going over the definition of what constitutes "labor," and what constitutes "property" and what constitutes "business," as I now shall do, it will become plainly apparent to you that there is no distinction, fundamentally, I mean, between the labor of the man who superintends a big business, the man who measures tape over a dry goods counter, the man who writes judicial decisions, or a professional man, the man who makes a wall, or the man who digs a ditch. It takes physical and mental faculties in co-operation to do any of those things; and if it is going to be done decently, it has got to be mixed with just a little moral salt, as well, to keep it from rotting.

What is the definition of property? "Property means the dominion of indefinite right of user and disposition which one lawfully exercises over particular things or subjects and generally to the exclusion of all others. Property is ownership, the exclusive right of any person freely to use, enjoy, and dispose of any determinate object, whether real or personal. (English and American Encyclopedia of Law.)" You cannot find a definition of property anywhere that has not got for its center and pith the capacity of being disposed of.

And labor cannot dispose of its labor power. It cannot be divided from the laborer. It is part of his life. It grows with his health, diminishes in sickness, and departs at death.

"Property is the exclusive right of possession, enjoying and disposing of a thing." (Century Dictionary.)

"A right imparting to the owner a power of indefinite user, capable of being transmitted to universal successors by way of descent, and imparting to the owner the power of disposition from himself and his successors." (Austin, Jurisprudence.)

"The sole and despotic dominion which one claims and exercises over the external things of the world in total exclusion of the right of any other individual in the world." (Blackstone.)

Now, those are the four most important of the definitions. I looked for some three months some years ago to find some other definition that meant something else. I could not find any.

It will be seen that property is a product of nature or of labor, and that the essential element is that it may be disposed of by sale, by gift or in any other way transferred to another. There is no distinction in law between property and property rights. From these definitions it is plain that labor power or patronage cannot be property. But, aside from this, we have the Thirteenth Amendment to the Constitution prohibiting slavery and involuntary servitude.

Labor power is not property, it cannot be, because it cannot be separated from the laborer. The ruling of the court makes of the laborer a serf, of patronage an evidence of servitude, by assuming that one man may have a property right in the labor or the patronage of another.

Definition of business. "That which occupies the time, attention and labor of men for the purpose of livelihood or profit; that which occupies the time, attention and labor of men for the purpose of profit and improvement." (American and English Encyclopedia of Law.)

"That which busies or that which occupies the time, attention or labor of one, as his principal concern, whether for a longer or shorter time." (Webster's Dictionary.)

Now, the definition of labor. "Physical or mental effort, particularly for some useful or desired end. Exertion of the powers for some end other than recreation or sport." (Century Dictionary.)

It will be seen from the above definition that, while there is a fundamental difference between property and business, there is none at all between business and labor, so that if business be property so is labor, and if the earning power of business can be protected by equity power through injunction so can the earning power of labor. In other words, the laborer may obtain an injunction against a reduction in his wages, or against a discharge which would stop the wages entirely.

If this new definition of property, by including therein business and labor, be accepted, then the judge sitting in equity becomes the irresponsible master of all men who do business or who labor. We contend that equity, power and jurisdiction, discretionary government by the judiciary, for well defined purposes and within specific limitations granted to the courts by the Constitution has been so extended that it is invading the field of government by law and endangering constitutional liberty; that is, the personal liberty of the individual citizen.

As government by equity (personal government) advances, republican government (government by law) recedes. We have escaped from the despotic government of the king. We realized that, after all, he was but a man. Are we going to permit the growing up of a despotic government by the judges? Are they also not men?

The despotism of one can in this sense be no better than the despotism of the other. If we are to preserve "government of the people, by the people and for the people," any usurpation by the judiciary must be as sternly resisted as usurpation by the executive.

Now, gentlemen, what do you make of the working man when you put him under the irresponsible, absolute autocratic government of an equity judge, while you, yourselves, remain under the republican form of government by law? You establish an iron clad class distinction. You go on the route that was travelled by the Aryans, and in India.

Do you want to do that? Do you want to say that a man, because he dirties his hands with labor, is not a full citizen; that there is a distinction between him, because he gives his services for a stated period, and for so much, to another? Do you want to say that he shall not be equal to you; do you want to put him in a special class by himself, and do you want to use the Constitutional Convention for such purpose?

Some great American jurist said that the American people were not free, because they had had a Constitution, but they had a Constitution because they were free. Of course, that statement does not need to be discussed. If the people of Illinois were not a free people, they could not be sitting here by delegates to determine the kind of government they are going to have in the future. The free citizens of Illinois selected delegates and sent them to Springfield, and said to them, "We want you to reconstruct the government of the State of Illinois. Of course you will do so in accordance with the Constitution of the United States, because we are a part of the United States, and subject to its final authority in these matters. We want you to determine the principles of our State government; what powers ought to be vested in the judiciary; what powers ought to be forbidden to the judiciary; what powers ought to be vested in the legislative branch, and what powers ought to be forbidden to the legislative branch; powers ought to be vested in the executive and what powers ought to be forbidden to the executive, within those limits." Having established those limits, the legislature of the future will legislate. The judges will act within them, if they can be induced so to do. The executives will not depart from them, not very likely, because they are elected every four years, under your proposals here, the judges will be elected for much longer terms. So that you need to be pretty careful about the lines that you lay down, especially for the judges.

Of course, the world is full of unrest. The newspapers are still more full of unrest than the world is. We are told that we are in danger of losing, somehow or other, the fundamental Americanism. Yes, there is danger of that but it comes from above and not from below. There is a great degree of hysteria amongst the people, and the employer says to you, directly or indirectly, "Adopt this: It will help us to control the labor," and they say, "Do not accept or adopt that."

It is necessary for you to look carefully into all these proposals that come to you because if you are induced to deprive the working man of his hopes, and lower him in his own estimation, the inevitable later result is fewer marriages, and fewer children. That is the penalty for the violation of nature's law by states or by governments. It has been so in the past and it will no doubt be so in the future.

So that if I may be so bold, I would say to you, before you grant those powers to the judge or before you vote against curtailing his power in such a way as to make a judge and not the autocrat, it would be well for you to take your little boy and put him on your knee, and look at him, and think of the proposition in the light of what or how it may affect your own boy.

Mr. MILLS (Macon). I wish you would please repeat the last sentence loud enough so we can hear it. I refer to the last statement.

Mr. FURUSETH. I thought I was talking loud enough. I said, that, if I might be bold enough to so say, then I would advise you gentlemen, before clothing the judges with the power herein proposed, and before you vote down the prayer of labor here, that you take your little boy and put him on your knee and look at him, and think a while, and try to understand what your action might mean to him. Before you clothe the judges with the power suggested in the anti-strike proposals pending in this convention, and before you vote down the prayer of labor here I would advise you to do that—think of your own boy.

There is unrest in the United States. There is no doubt at all about it; but there isn't so much of it as to make it of any real consequence. There are not enough Bolshelviki or Reds in the whole United States to make one serious riot, if they were to be aggregated in one single place in the country.

Take away from the worker his power of self help; take away from him his self-esteem and place between him and his employer the full strength of the government of the State of Illinois, and what you will be doing will be to wipe away the trade unions; I mean as they now exist, and you will then establish and foster the great, the "One big union" that the real Reds are advocating. "The one big union" is a European institution. It is essentially a political organization. Its powers and struggles are directed against the state and not against the employer as such. Here in the United States we working men flattered ourselves that we had arrived at a condition in which the struggle was between the employers who consider themselves, of course, the legitimate masters, and the men who toil; whereas, in Europe, very largely the question was between the working people and the state.

Seeing that we looked upon the condition here as being a struggle between the employer and the working people we organized on industrial lines, into trade or labor unions, keeping away from politics, as such, dealing purely with the condition of work, of employment, and of wages and hours of labor. Like other organizations—because we might pass a resolution in favor of better schools, better hospitals—sometimes we would pass resolutions, not as union men, but meeting in our capacity as free citizens, in the discussion of those questions, the same as any other group of men would meet and pass some resolution in favor of free trade, and so forth, but it was all a question of industrial conditions.

When the employer succeeds in seizing upon the government of the State of Illinois and using that authority as a smoke screen or as a shield, then the industrial craft unions will be of no value, and they will pass away, and in place of that you will get the red revolutionary "One Big Union" that the real revolutionists are advocating in European countries. And what is advocated in this country as the "one big union" is a pale imitation of the European prototype.

Strikes. You want to stop strikes. So do I. I have been in as many strikes as I have got fingers. I was in one strike that lasted for five months and a half. I did not know for two months what it was about. And then I got an idea into my head, and I have since made some inquiries in New York, and I found that we seamen of the Pacific were in a strike and lockout in order that Harriman might get an opportunity to force enough of the stock of the Pacific Coast Company on the market, so that he could force himself in on the board of directors of the Pacific Coast Company and thereby sell from the Pacific Coast Company to his own company the railroad terminal at Seattle; and when he had been elected on that board of directors of the Pacific Coast Company, he promptly told his particular San Francisco leader or "henchman" whatever you may politically call it, that he would like to see us and see if we could not get the strike settled up. We could not help ourselves. It was utterly impossible for us to stop the strike until the purpose was accomplished. We were forced to continue. The more successful we were in the strike, the nearer Harriman came to getting the terminal that he wanted in the struggle with Hill. Hill wanted San Francisco and Harriman wanted to get to Seatle. Harriman got the terminal and this strike ended. That is what happens in strikes.

Strikes! Why, gentlemen, I have sat in union meetings where the representatives of the employer, that I knew to be such, advocated striking, and I knew why; and I stopped him and prevented it, when I knew. A couple of times I did not know. A couple of times I knew, but sometimes I did not know.

No, strikes! What is a strike? It is the leaving of employment collectively. The thirteenth amendment says no one shall be compelled to work against his will, nobody shall be compelled to suffer involuntary servitude. In Bailey vs. Alabama, it was definitely and clearly stated, by unanimous court.

Are we working people not going to be permitted to exercise the same defense that the cattle exercise on the plains? Why, when they are together and the wolves come prowling around they just make a ring; the calves go

on the inside, the cows next, and the bulls on the outside with the business end to the wolves. That is nature's law. The horses do the same thing. The sparrows do it when the hawks are around. Would you take the power of defense from us, and suffer the same consequences in Illinois, that the United States suffered in its sea power by the destruction of its personnel?

I cannot believe that the men who have made these anti-strike proposials are real students of the political development, or sociological development of the civilized world. If they are, and they know the consequences, God forgive them, is my prayer. If they do not know, you ought to know and dispose of it in the way that such proposals deserve to be disposed of by men intrusted with such exalted powers and responsibilities as are conferred upon you.

No higher office can be given to any man in Illinois; no higher office can be given to any man in any state, than to share in the making of its fundamental law. I feel that the majority of you will realize that, and will also realize the tremendous responsibility that rests upon you. But some will say "Stop the strikes," "Stop the strikes." These men go on strikes. Well, what about it? There are some things in this world much worse than strikes; a hopeless, helpless, disheartened working people is, by far, worse than strikes.

Look at the condition of Central Europe in the time when strikes ran rampant; in the development of the guild system. Never was Europe in the last hundred and fifty years in such an eagerness of progress and such a turmoil of labor in every direction. Swamps were drained, forests were cleared, handicrafts were developed, cathedrals were built, cities built, castles erected, and there, later, the foundation of modern society was laid in those days; and then real hope was taken away from the working people. The struggle between the spiritual and the temporal power ended. The hopes and aspirations of freedom were taken away from the working people, the whole thing died; progress moved on leaden feet and the populations in certain parts of Europe began to diminish.

So that strikes are simply an evidence of life. Some of them are bad. There are some of the things that democracies do that are bad, but it is better that they should make mistakes and remain democracies, than that it should shed its powers of self government and adopt a monarch, either a judge or a king.

So, while strikes are troublesome at times, while sometimes somebody may starve, somebody may freeze, did you ever think, gentlemen, how many there are who freeze when there is no strike; how many there are who starve when there are no strikes; do you ever think of the meaning of the situation as described in Poland? There are no strikes there, fifteen, twenty years ago how could there be; the people were living on black bread and cabbage soup, and now they are ready to cut the throats of the men who kept them so. Is that an advantage?

The condition as it existed there was so much behind the rest of Europe, in the western part, that there is no comparison. Why? Because all hope and all strength was taken from the common people, because all hope and all strength, and all energy was taken from the common people. Will you repeat that here? You have got the power, gentlemen.

Why, you can go as far as the Constitution of the United States will let you go. How far that is, I do not know. You would have to find out; you would have to find out from the judges of the Supreme Court, you would have to go to the judges of the Supreme Court, because they have the last word; and there is no absolute telling what they may say about the matter, but the probabilities are that if you establish an industrial court, as the previous speaker told you, that you and Kansas both will be brought up with a round turn.

They may—they might perhaps—find a way of construing it, as they are, endeavoring to construe it in the Cummin's act, that when one man leaves his employment he has a right to do so because that is an individual right and that is in accordance with the thirteenth amendment, but when

three men leave that is a conspiracy, in violation of the law; but would they think and decide in favor of such court when it decided against the employe and you know that may be possible.

Well, what then does it mean? What does it mean when we say that men are "free"? "Men are free." That we are all "free men." Does it mean that one "free" man cannot associate himself with another "free" man for the mutual bearing of each other's burdens, for the mutual assisting of each other for better life, for better condition, for the purpose of obtaining more life, and getting it more abundantly. If that is the meaning, then the man is free to isolate himself, and that is all. Of course, that is *reductio ad absurdum*. We can't have any middle ground—we can't have any real middle ground—between the real American system based upon individual freedom. That is the fundamental Christian idea. There is no middle ground between that and the Russia Bolshelvist system in which there is no free man and the state is everything.

Our newspapers published small tracts, or extracts from Treitschke's Treaties on the State. In his conception, the state is everything. The state says, "You cannot stop work because somebody might be hungry. You can't stop mining because somebody might be cold. You can't do this, that or the other thing. The whole people act as an entity through the state." The state will tell you what to do, and what not to do. That is his conception of the state.

We are told to go over to Germany to kill Germans, and incidentally kill a whole lot of our people to abolish that iniquity and then when we have abolished it, or pretty nearly abolished it in Germany, because I think they are on the road to it, we are adopting it here. Nay, nay, I do not believe it. I can't believe that that will be done in Illinois today, or in this year of grace.

The question was asked here, about a free contract; if a man had left an employer, what right did he have to go and tell some other workmen the reason why he had left, or advise him not to go work for that man; what right had he to do it? The same identical right that I have got to warn a blind man from going over a precipice; the same right that one working man, or that one man, has got to advise the—to advise or warn another man against doing something that will be an injury to him, and harmful to him; the same identical right, and the same identical duty that a man has got to take the whisky bottle from the drunkard's lips, if he can do it gently; because the fundamental Christianity says, "Ye shall bear each others burdens, and they shall be light." Of course, I could let him go, and when I met his wife, I could say, when she said, "Why, why did you not tell John what kind of a place that was"—I could answer the same as Cain answered in respect to Abel, "Am I my brother's keeper?"

"Persuasion." What is wrong about that? Can there be anything wrong in one free man persuading another free man; as to what he ought to do or ought not to do in a matter in which he has the right of deciding either way? Whose rights is he violating by so doing; whose property rights is he treading upon; what moral crime or dereliction is he guilty of? A man has got a perfect right to be persuaded. He does not belong to anybody. He does not owe any service to anybody. He is a free man if he wants to be. He is free to say "yes" or "no."

I think Proposal 232, the proposal submitted by organized labor, contains a word that ought to go out. I want to suggest to you gentlemen that you look pretty carefully at it, when you come to that and see whether it ought not to come out. Note the word "peaceful!" "No court, tribunal, judge nor any officer or official shall by any process, decree or proclamation abridge the right of any workman to quit any employment either singly or in concert, nor the right by 'peaceful' persuasion, etc."

Anything that is not peaceful comes under the common law. The word is not needed and it may suggest to some clever locksmith of a lawyer a way of unlocking this particular lock. He draws up his complaint and says they were not *peaceful* and therefore the judge can issue an injunction or restraining order. If they are not peaceful, why, just call the police.

The police regulations deal with people who are not peaceful. Equity is not a night stick! Then why that word "peaceful" in there? Gentlemen, may I ask you to carefully scan that word "peaceful" and see whether you had not better strike that word out. I think that is about all I have to say.

Mr. MOORE (Macon). Mr. Furuseth, I would like to ask a question, if you care to answer it.

Mr. FURUSETH. I would be pleased to answer, sir.

Mr. MOORE (Macon). Mr. Furuseth, were you not a member of Congress, from San Francisco, about twenty years ago?

Mr. FURUSETH. No.

Mr. MOORE (Macon). About twenty years ago?

Mr. FURUSETH. No, I never was a member of Congress.

Mr. MOORE (Macon). Were you ever a candidate for Congress?

Mr. FURUSETH. No, I was not even that. I was offered it about twenty years ago.

Mr. MOORE (Macon). You live in San Francisco?

Mr. FURUSETH. I live in San Francisco. I am registered in San Francisco now, and when I am fortunate enough to be there I vote there.

Mr. MOORE (Macon). You are the head of the Seaman's Union, are you not?

Mr. FURUSETH. I am the official secretary of the Seaman's Union of the Pacific.

Mr. MOORE (Macon). You are the head of the union?

Mr. FURUSETH. I am also vice president of the international union of America. In the service of the seaman I have been compelled to stay around Washington a great deal for the last few years.

Mr. MOORE (Macon). You lived in San Francisco for a good many years?

Mr. FURUSETH. A good many years, yes, sir.

Mr. MOORE (Macon). Did your union devote itself particularly to doing away with those sailors' boarding houses that were along the water front, with the trap doors, and the other things that we have heard of?

Mr. FURUSETH. We certainly did, and we succeeded so well there are no such boarding houses and no trap doors there now.

Mr. MOORE (Macon). Did you clean Seattle in the same way?

Mr. FURUSETH. Just about.

Mr. MOORE (Macon). Well now, that was very good work, no doubt about that. It was needed.

Mr. FURUSETH. I want to say to you, incidentally, if you would permit me, we could not reach all the boarding houses until the Seaman's act of 1915 was enacted.

Mr. MOORE (Macon). Yes!

Mr. FURUSETH. Because they still had their grip upon the poor devil who was sailing deep water.

Mr. MOORE (Macon). Upon whom?

Mr. FURUSETH. I said, they had their grip through imprisonment or advances and all that matter on the poor devil, 'chattel" that was sailing deep water.

Mr. MOORE (Macon). "Chattel?"

Mr. FURUSETH. "Chattel" because the man sailing deep water in those days was nothing but a chattel of the ship when he was on board. He was a chattel when he was on board with the master and when he was on shore.

Mr. MOORE (Macon). You said a while ago, or I understood you to complain a while ago, that men on board ship, who were working for the government could not quit, as if they would deprive them of some right.

Mr. FURUSETH. You misunderstood me. I said, the man, or I meant, the men working on the vessels of the United States.———

Mr. MOORE (Macon). Yes.

Mr. FURUSETH. Any vessel—I do not mean vessels belong to the United States———

Mr. MOORE (Macon). You mean merchant ships?

Mr. FURUSETH. I do not mean the war ships. I mean any vessel carrying the American flag.

Mr. MOORE (Macon). Yes.

Mr. FURUSETH. He could not quit without going to jail for it, or be taken on board of the vessel against his will. That was not abolished altogether until the fourth of March, 1915.

Mr. MOORE (Macon). Now, the shipping articles really are a contract, are they not?

Mr. FURUSETH. Yes.

Mr. MOORE (Macon). Always?

Mr. FURUSETH. Yes——

Mr. MOORE (Macon). And when a man——

Mr. FURUSETH. Supposed to be.

Mr. MOORE (Macon). And when a man has signed a contract to serve on board ship, particularly for passage, that is supposed to be good, is it not, even in your union?

Mr. FURUSETH. If he has signed for a passage and has started on the passage, he could not possibly avoid finishing the passage, because a passage from New York to Liverpool, at sea, the common hazard, or the common danger, governs, and no one can quit at sea, or refuse duty at sea without imprisonment. However, in port we can.

Mr. MOORE (Macon). You did not succeed in getting that law repealed, with all due propriety to yourself?

Mr. FURUSETH. Not at sea. We would not want it repealed at sea. On the contrary the Seaman's Act provides, section 7, of the Seaman's act provides for stricter penalties for disobedience at sea than there existed before, and our organization assisted to draw those stricter provisions, because we realized, being practical seamen, we realized that there must be obedience, skill, and readiness of sacrifice on a vessel at sea. But a contract to perform service is subject in violation to civil penalties only.

Mr. MOORE (Macon). Can you tell me whether the steamship Minnesota is still sailing the Pacific?

Mr. FURUSETH. No.

Mr. MOORE (Macon). What has happened to her?

Mr. FURUSETH She left San Francisco or Seattle, and after a great deal of trouble and tribulation she came to the Atlantic coast, and since that time she had to get new boilers, etc., and after she came to the Atlantic coast she has been sailing from the Atlantic coast to Europe under the American flag. I think she is still sailing.

Mr. MOORE (Macon). Will you tell me what has become of the Dollar line of steamships on the Pacific coast?

Mr. FURUSETH. Let me tell you of what steamships Captain Dollar had; Captain Dollar had four small steam freighters under the American flag sailing along the Pacific Coast between Mexico and California, Oregon and Washington coast and British Columbia; three of them still sail there and one of them has gone where all vessels usually go in the end. The rest of the Dollar fleet consisted of four steamers, freight steamers, the smallest of them 2,750 tons and the largest 3,640 tons net register. They were built in Glasgow, registered in Victoria, British Columbia, with English officers and a Chinese crew and sailed between Pacific coast ports and China, and they are still continuing to sail there except one of them that he has sold to a Japanese firm.

Mr. MOORE (Macon). In 1910 there were a number of ships named Dollar?

Mr. FURUSETH. Each of the four I mentioned was called Dollar—the Robert Dollar, the Mabel Dollar, the Grace Dollar, and so on—they all had the Dollar mark.

Mr. MOORE (Macon). And they were all listed in the Navy Department as American ships, were they not?

Mr. FURUSETH. No, they were not.

Mr. MOORE (Macon). I differ with you.

Mr. FURUSETH. I am sorry, but you are wrong.

Mr. MOORE (Macon). I happened to have that furnished me on an official list from the Navy Department.

Mr. FURUSETH. At what time?

Mr. MOORE (Macon). In 1910.

Mr. FURUSETH. Who was taking you out for a walk?

Mr. MOORE (Macon). I was working in a navy college then and was furnished with a list of the Dollar ships.

Mr. FURUSETH. They were not sailing under the American flag then, they were sailing under the English flag. Only two of them ever got under the American flag, and that was in 1919, and prior to the loss of the German ships in the South Atlantic. After the battle off the Falkland Islands, Mr. Dollar never put any more vessels under the American flag. I am perfectly willing to give you my head for a football, if there is any mistake in that statement.

Mr. MOORE (Macon). I would not want your head for a football under any circumstances, but I am giving you facts.

Mr. FURUSETH. Mr. Dollar appeared before the committee on Merchant Marine and Fisheries in 1914, and he was asked by the chairman of the committee, and his vessels were taken out of the Lloyds Register, and if you can find a Lloyds Register today dating from 1911 to 1914 I can prove to you that somebody took you out for a walk.

Mr. MOORE (Macon). I was stationed on the Pacific Coast for fifteen years and the Pacific Mail Steamship company was in operation in 1914, making frequent trips to my station at Honolulu. How many of these ships are in existence now?

Mr. FURUSETH. They all moved over to the Atlantic seaboard.

Mr. MOORE (Macon). Why?

Mr. FURUSETH. Because they could earn about four times as much money carrying ammunition across the Atlantic as they could carrying anything across the Pacific. When the Panama Canal Act was passed, it was specifically provided that no vessel owned by the railroads would be permitted to go through the Panama Canal. The Pacific Mail Steamship Company was owned entirely by the Southern Pacific Railroad Company, and in order to make the vessels profitable it was necessary for those vessels to begin their voyage at New York, go through the Canal and then to China. And that is the reason why Schwerin appeared in Washington and begged for permission to have the vessels go through the Canal, and offered to build four big ships if he could get that permission. These vessels were sold to the International Mercantile Marine. And because they could not be used on the Pacific any more. There are now five vessels sailing between San Francisco and China.

Mr. MOORE (Macon). Then all the newspaper statements and the other statements made in Congress about the time of the passage of the Seaman's Act were not true?

Mr. FURUSETH. That is absolutely correct, and if you please I will give you the reasons why.

Mr. MOORE (Macon). Go ahead.

Mr. FURUSETH. You have in Great Britain a corporation called the International Shipping Federation, Ltd. It is made up of international ship owners' associations. Its purpose is to control shipping regulations and maritime regulations in every country. The Seaman's Act which was designed to compel England to pay as much wages as the American ship owners, did not suit them, and they used their influence with the American newspapers to publish such news, that people who never read anything but the newspapers, would be led to believe the Seaman's Act to be a cockatrice.

Mr. MOORE (Macon). And you don't blame the Seaman's Act for ships not flying the American flag?

Mr. FURUSETH. We have three ships running from San Francisco and touching Japan and touching China.

Mr. MOORE (Macon). You are mistaking the Oceanic Line for the Pacific Mail.

Mr. FURUSETH. Good Heavens, no! The Pacific Mail goes through the North Pacific while the Oceanic Steamship Company vessels go through the tropics to Australia. I am a sailor. I do not make such mistakes as that.

Mr. MOORE (Macon). Perhaps I am not—I only spent forty-six years at sea.

Mr. FURUSETH. Then I don't see how you can put that question to me. A man who had been dog watch at sea wouldn't make such a mistake.

Mr. MOORE (Macon). When I left the sea four and one-half years ago there wasn't a ship crossing the Pacific carrying the American flag, unless it was the Minnesota.

Mr. FURUSETH. The Minnesota left in 1915, but the Mansuria and the Mongolia did not leave the Pacific until 1916, and so they were sailing. They sailed a little time after. Are you sure you did not make a mistake between the reports from the custom house and the reports from the newspapers?

Mr. MOORE (Macon). I was in Honolulu and they had stopped running when I left.

Mr. FURUSETH. That is true. The Mongolia and the Mansuria and the other vessel that was running at the time they were on the northern route, the Northern Circle.

Mr. MOORE (Macon). Why did they shift?

Mr. FURUSETH. They did not always run by way of Honolulu. They did not after 1916, but I am not going to dispute that with you. I know they sailed out of San Francisco, and I know what kind of crews they carried—they carried Chinese.

Mr. MOORE (Macon). I know they did.

Mr. FURUSETH. Very good Americans for the purpose of building up an American merchant marine and furnishing men for the American Navy.

Mr. MOORE (Macon). They carried American quartermasters.

Mr. MOORE (Macon). Did they wait until after the war broke out?

Mr. FURUSETH. I should rather say so.

Mr. MOORE (Macon). You do not think the Seaman's Act had anything to do with the fact we have no ships carrying the American flag across the Pacific today?

Mr. FURUSETH. That is not true, we have three.

Mr. MOORE (Macon). When did they begin to run?

Mr. FURUSETH. They have been running about three years from San Fransico; they are running to China and Japan. They carry a Chinese crew.

Mr. MOORE (Macon). They carried American quartermasters.

Mr. FURUSETH. Yes, four men out of a crew of sixty; they had American officers and American quartermasters.

Mr. MOORE (Macon). They were competing with the Japanese line and helping American commerce.

Mr. FURUSETH. It was a very common understanding in San Francisco and an acknowledged statement from Mr. Schwerin that the Pacific Mail had an agreement with the Toyo Kishen Kaicha and they divided proceeds. Mr. Schwerin told me that.

Mr. MOORE (Macon). Do you remember the name of the manager of the Toyo Kishen Kaisha?

Mr. FURUSETH. No. I am glad you gave me the opportunity to explain. It is very interesting.

Mr. FURUSETH. They were competing with the Japanese line, that is the Toyo Kishen Kaisah.

Mr. LINDLY (Bond). I move that this committee may now rise and report progress and ask permission to meet at eight o'clock.

(Motion carried.)

Mr. SNEED (Williamson). Your committee on Industrial Affairs and Labor reports progress and asks leave to sit again at eight o'clock.

(Report adopted.)

(President Woodward presiding.)

Mr. LINDLY (Bond). Your Committee on Public Works makes the following report:

Your Committee on Public Works and Improvements to which was referred Proposal No. 47 reports the same back with a substitute therefor, being Proposal No. ——, a proposal entitled "Canals and Waterways," and recommends that the original proposal, above enumerated, be rejected, and that the substitute Proposal No. —— be placed on the General Orders.

(Signed) CICERO J. LINDLY,
CHAS. H. IRELAND,
L. A. JARMAN,
WALTER H. WILSON,
WILLIAM M. SCANLAN,
LAWRENCE C. JOHNSON,
WILL STEWART,
W. H. CHEW.
Committee.

(Report adopted.)

THE PRESIDENT. Under the rules it will be printed.

Mr. TRAUTMANN (St. Clair). Your Committee on Executive Department makes the following report:

Your Committee on Executive Department to which was referred Proposal No. 50 reports the same back with the recommendation that it be re-referred to the Committee on Judicial Department.

(Signed) WM. E. TRAUTMANN,
FREDERICK R. DEYOUNG,
CHARLES S. CUTTING,
FRANK S. WHITMAN,
MICHAEL IARUSSI,
HENRY I. GREEN,
LAWRENCE C. JOHNSON,
ROLLO SIX,
G. W. HOGAN,
J. MACK TANNER,
G. GALE GILBERT,
CYRUS E. DIETZ,
Committee.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). I move that we take a recess until eight o'clock.

Whereupon an adjournment was taken by the Convention to Wednesday, April 7th, A. D. 1920, at eight o'clock p. m.

8:00 O'CLOCK P. M.

The Convention reconvened to recess.

The President in the chair.

THE PRESIDENT. When the Convention adjourned we were under the general orders of the day in the Committee of the Whole, hearing Proposal No. 232. The Convention will now resolve into a Committee of the Whole on the further hearing of that proposal. Chairman Sneed will please take the chair as chairman of the Committee of a Whole.

CHAIRMAN SNEED. Our next speaker as presented by the American Federation of Labor is John P. Frey, Editor of the National Moulders' Journal.

Mr. FREY. Mr. Chairman and gentlemen of the Convention. I would be unwilling to take up any of your time if I did not feel that the particular question that is being considered today is one of the most important which the delegates framing a Constitution can consider. It is as important at the

present time as it ever has been in the history of our country. It is more important than at any other time because throughout the civilized world men are struggling to establish a larger share of justice and a larger measure of democracy. The work which you will perform, if accepted by the citizens of Illinois, will determine very largely not only the opportunities which the citizens of this State will enjoy to improve their conditions in life, but it will have very much to do with the respect which the citizens of the State will have for the laws which the legislature will enact under the rules and the limitations which you fix upon its powers.

We have a peculiar government. It is different from the government of any other people on earth. We prize it very highly because in our opinion it has given a greater degree of liberty and opportunity to citizens than has ever been given to citizens of any other government under any form of legislative control, and one of the reasons for that probably is the conception of government among men which the founders of our great Constitution had in mind when they framed it.

This morning we had a part of the Declaration of Independence read to us. For the purpose I have in mind, I want you to bear with me while I read it again: "We hold these truths to be self-evident, that all men are created equal. That they are endowed by their Creator with certain inalienable rights; that among these are life, liberty and the pursuit of happiness. That to secure these rights governments are instituted among men deriving their just powers from the consent of the governed. That whenever any form of government becomes destructive of these ends it is the right of the people to alter or to abolish it." There are two statements there to which I would call brief attention. One is that all men are created equal. It is true this evening that I speak as a representative of the Trade Union movement. I hope it is thoroughly understood that I am also speaking as an American citizen. My understanding is this, not that men are created with equal powers, physical and mental, because we know some men are born into this world idiots, some men are born into this world geniuses; we know that men are born physically unable to provide for themselves while they live. That is not what this means. It means this, that all men are born with equal rights, that no men are born with privileges they are entitled to enjoy that others are not equally entitled to enjoy, and it means that our Constitutions, Federal and State, under which we live, are based upon that idea, that all men are born with equal rights and equal opportunities and anything which interferes with the operation of equal rights and equal opportunities is contrary to the essence of the most basic of American institutions. The other one is this: That when we find that any branch of government, that any department within the country interferes with this right of equality, of opportunity of the right to life, liberty and happiness, that it is the duty of the people to correct the interference which has been developed by some branch of the government or failure of some branch of the government to preserve these fundamental rights. As a result of our Declaration of Independence, as the result of our Federal Constitution, we have been for many years a people governed by law. We have been opposed to government by men, for that is autocracy. We believe firmly the only safety of our rights lay in being governed by law and we believe that those laws can only be made by the consent of the governed. We cannot have a government by law' unless that law is made with the consent of the governed and through the representatives of the government who are elected to enact legislation, and it is with that idea in mind that I intend to bring out some of the points that will be touched upon later. Before doing that I want to say that no American can come to this City without feeling more or less the influence of probably the greatest commoner that this country has ever had, the immortal Lincoln, the Emancipator, the man who came from the people and rose to the highest position within the gift of the people but who never lost his close touch with the people even after he had been elected to the executive position of our Nation. He discussed the labor problems; he discussed the rights

of workmen and touched upon the question of the worker's right to strike which has been considered a great deal today. He said in a speech delivered in New Haven, "I am glad to say that a system of labor prevails in New England under which laborers can strike when they want to; where they are not obliged to work under all circumstances and are not tied down and compelled to labor whether you pay them or not. I like the system which lets a man quit when he wants to and I wish it might prevail everywhere." That is what President Lincoln said relative to the rights of men to strike when the conditions of labor became unsatisfactory to them. During Lincoln's life the theory of a property right in labor was finally disposed of. There had existed a condition in the nation, a condition in the United States in which there was recognized a legal property right in the labor of a man. Men could be bought and sold and were. The Congress of the United States and the people of the United States in enacting amendments to the Constitution have been very careful that there should be no such thing established in any form that would force men to work against their will except as a matter of punishment. Freedom of contract was discussed this forenoon and this afternoon, and I would like to call your attention to the fact that the United States Government found it necessary on one point to limit that right of contract, and it limited it by declaring that no man could bind himself through debt or otherwise to work for any other man until that debt was paid. So careful were they that labor should be given the privilege and the right of elevating standards of living, to that extent the right of contract has been limited so that no man can become the peon of another in the United States.

There is a theory that seems to be spreading to some extent in certain quarters in our country relative to protecting the public from the inconveniences of industrial disputes, that the welfare of the majority is superior to the rights of the minority, and influenced by that theory well intentioned men have endeavored to devise ways and means by which inconveniences to the welfare of the majority might be done away with by preventing strikes; several countries have adopted methods by which it was hoped that could be done. Two of them believed that acting on this principle the solution lay in hearing the merits of any industrial controversies, of deciding the merits, of handing down a decision which employer and employee alike would be forced to accept. It was the conception of those who framed compulsory arbitration legislation in Australia and New Zealand that the welfare of the majority was superior to the rights of the minority, and that it was advisable both in the cause of justice and in the welfare of the community that industrial disputes should not disturb orderly progress of industry, and so in the Australian Commonwealth and in New Zealand, for a long time so far as the law is concerned, it has been illegal to go on strikes; it is illegal for the employer to discharge his employees, and the penalties are fine and imprisonment. In a number of instances strikers have been heavily fined; strikers have been given considerable terms of imprisonment for having violated the law which existed for the purpose of protecting the welfare of the majority even though it interfered with a man's right to quit work when conditions were unsatisfactory. I cannot discuss theory this evening; that has been discussed. I propose to deal with facts. Theories are tested out in the school of experience and the wise man is governed and guided by the lamp of experience rather than the blue prints of the theorist.

The fact remains that in the Australian Commonwealth strikes have not been abolished. Just before coming to Springfield I received the last government report from Australia, which covered the first eleven months of 1919. This report indicated that during that eleven months, two million three hundred thousand possible days of employment had been lost because of strikes. In the previous year only one million two hundred thousand had been lost. In Australia they have mines and a Miners' Union, and the methods they have endeavored to apply there to force workers to remain at work and to abide by the decisions of the courts of arbitration, and where the penalty is imprisonment as well as fine, during those eleven months in

the coal mine, thirty-three and eleven-tenths per cent (33.11%) of all possible working days were lost, as the result of strikes; in the Metaliferious Mines 44.4% of all the possible working days were lost as a result of strikes, and had the government endeavored to imprison all the miners who went out on strike, it is probably safe to say that 100% of all possible working days would have been lost to Australia so far as the extraction of coal and metals is concerned, so that the long-tried-out experience, and this legislation is some twenty years old, the long-tried-out experience in Australia has proven that the efforts to force employers and employees to abide by decisions of courts of arbitration are unsuccessful. Regardless of what the theory may be, the experience of men has been that it does not produce the result.

There is only one other country where they have endeavored to solve one phase of the industrial problem by preventing workmen from going out on strikes; it is a country we hear much about these days; we are forced to think about what is transpiring in that country, because the influence of it reaches here and apparently alarms a great many. In Russia today it is believed that the welfare of the majority is of more importance than the rights of the minority. There are no strikes of long duration in Russia. They fine strikers and imprison them, but the best way to enforce their issue is to line the strikers up in front of a stone wall with a firing squad facing them.

These are the only two experiences, gentlemen, I know of where the effort has been made to solve the industrial problem by enacting legislation that will compel men to work when they are dissatisfied with the conditions of employment. What we need in every State in this Union, not only is obedience to the law but what is of equal if not greater importance, respect for the law, and if the history of mankind teaches us anything it teaches us that men have never obeyed laws for which they had no respect, and if we expect American citizens to be law-abiding citizens, it seems to me we must be sure when we are laying down the principles to govern legislative bodies that we lay them down in such manner that the laws enacted by the State for the administration of our courts will be such that the people will have reason to respect the law, and respecting it obey it. We made popular use of the term during the war of making the world safe for democracy. I think what has developed in the civilized world since the war has given us good reason to consider the question of making our own country safe for democracy.

There are only three forms of government that we can have, gentlemen; one is an autocratic form of government where one man or a small group determine the laws which the majority will be forced to obey; the other is a democratic form of government which we have in the United States; and the third is a socialistic form of government which is being tried in Russia and which on a smaller scale has been tried by a few groups of men, and we must choose which one of those forms of government will be the one which will prevail in this country, and we cannot in my opinion have partly a communistic form of government and partly a democratic form of government. We can no more have parts of our citizens governed by law and parts of our citizens governed by edict, than we could have maintained our Union, as Lincoln said, half-slave and half-free. We are told that what is most necessary at the present time is to bring out co-operation between all of the productive activities and the agencies in our country. We are told that our welfare as a nation demands that we shall co-operate. I think we are all heartily agreed with the proposition that we must co-operate, but if there is to be co-operation between citizen and government, if there is to be co-operation between workmen and employer before the co-operation can exist, confidence must be established, and before confidence can be established all those who are to co-operate must have a voice in determining the rules under which that co-operation is to be conducted, that we determine those rules by having State legislatures determine the laws that are to govern the people under a Constitution which indicates the functions and limitations of the three branches of government—the legislative, judicial and the administrative.

Let me touch for a moment upon what lies back of this question that is submitted in section 3, the question of the injunction. How it is used, the question of what it means in practice—I will not deal with the origin of equity powers nor the history of its development—that has already been done. I think perhaps it would be more advantageous to deal with what has developed in our country under the exercise of the right of injunction as it has been issued by courts of equity. Before doing that, so we may understand it better, let us ask ourselves the question why do industrial disputes arise, what are the questions involved? The questions involved are partly the worker's right in having a voice in determining the terms of employment, the real questions are what are the terms of employment to be, what shall be the wage of the wage-earners, how many hours a day shall he work, under what conditions shall the laborer be employed, what shall be the rules and regulations and what do these things mean? What do wages and hours mean to worker and wage-earner who constitute the great majority of the population? They mean a great many things not generally taken into consideration. The wages that are carried home to the worker's domicile on pay day determine where that home shall be, the amount of money that he has received for his labor determines whether his family shall live in one or two rooms in a crowded tenement district or whether they shall live in a little cottage where they have pure air and sunshine; they determine the quality and quantity of the food that is on the family table, to say nothing of the comforts that are in the home; they determine the opportunities which that wage-earner's children will have so they may begin the race of life with as good opportunities as the children of any other family. What does the quantity and quality of food mean in reality? The food that is on the workman's table determines the quality of the blood flowing through his veins as much as the material going into the furnace determines the quality of the pigiron that will flow out of the spout; the food which is bought with this wage-earner's money determines whether the blood flowing through the father's and mother's veins shall be weak and lacking in vitality or whether it will fully nourish and strengthen all the parts of their bodies and their minds, and the quality of that blood determines the physical and mental characteristics of the children born into the wage-earner's family.

Not long ago the United States Government believed it necessary to have some better understanding of the effect of wages on child life. Investigations were made in a number of cities, among them Mont Clair, New Jersey; Manchester, New Hampshire, and a number of others, and they discovered this extraordinary fact, that you can determine the rate of infant mortality by finding out the bread winner's earning capacity, and just as the rising of the mercury in the thermometer shows the degree of heat, so the rise in the scale of wages determines the percentage of infant mortality. I know that statistics are dry, but I would like to show you in Mont Clair, New Jersey, a typical residential district, where unskilled and skilled labor lives, at the time when the investigation was made had an average rate of infant mortality of eighty-four per thousand, and this investigation was made before the war; where the father's earnings were $12.00 or less per week, the rate of infant mortality was one hundred and eleven per thousand; in the homes where the father's earning capacity was $24.00 a week or more the rate of infant mortality was thirty-four per thousand, so that the wages paid to the bread winners of the families determine the number of children who could live, and if they determine that, how about the degree of vitality of the children who live in the family where the father's earning capacity is $24.00 a week as compared with the vitality with which the children who live enter into the struggle of life where one hundred and eleven per thousand die because they did not come into this world with sufficient vitality to stand the strain of childhood?

The terms of employment determine the length of life. One of the most startling things I know of in connection with terms of employment are the number of years that have been added to the lives of the members of some of the organizations who keep statistics. One of the gentlemen who will

speak to you shortly, the president of the Cigar Makers' Union, will tell you in 1858, fifty-one per cent and a fraction of all the members of his organization died of tuberculosis; in 1888 the average age at which death to the members of the organization occurred was thirty-one years and a fraction. Wages were low in 1888; the conditions under which they carried on their trade were most unsanitary; the homes in which they lived were not homes conducive to the best of health. As the result of the efforts of their organization, their determination to protect their own interests, wages increased, homes improved, the conditions in the shops became more sanitary. Last year less than twenty per cent of the members of that organization died of tuberculosis. In 1888 the average age at death was thirty-one and a fraction years; last year it was fifty years and a fraction. In other words, since 1888 the members of the Cigar Makers' Union have added nineteen years to the average length of life of their members. In 1900 the average age at death of the members of the Typographical Union was forty-one years and a fraction; that was the beginning of the twentieth century. Last year the average age at death of the members of that organization was fifty years and a fraction, so since the dawn of the twentieth century, that organization because its members worked in more sanitary surroundings, have better food in their homes than they had previously, have added to their average length of life nine years.

So wages, hours and other conditions of employment, that after all underlie all of the industrial conflicts, mean life itself to the worker. Naturally the workers are therefore impatient, naturally the workers are therefore fearful, when they find any governmental power, when they find any branch of our government, exercising an influence which robs them of that right of opportunity, which is intended to prevent them from exercising their right to quit their employment when they believe for any reason it is advantageous for them to do so, and so when they begin to consider this question of injunction, this question of the powers exercised by courts of equity in connection with industrial disputes, they present their case, they present the reasons for taking their position with all the force and vigor at their command.

It is interesting to note that this is the only country, this land of the free, the only one in which the court of equity assumes to issue a mandate to labor saying, you must remain at work, you cannot hold conversation with your fellow-worker, you cannot enjoy the right of free speech, the only country, this land of the free and home of the brave, this people more altruistic than any other people on earth; this people who have sent their sons out to war, not for selfish aggrandizement, but to protect the weak and to bring a larger measure of justice to the people of the earth. This country has permitted to grow up in its courts of equity a condition which permits not government by law but government by men, a condition which, instead of holding an equal balance when there is an industrial dispute, exercises all the power which the court of equity is able to command to assist one party in connection with the dispute and to handicap the other, to assist the employer and to handicap the wage-earner, under the assumption apparently that somewhow or other management, invested capital has certain property rights which are not to be injured, and if there is an industrial dispute must be protected at any hazard by a court of equity.

I feel that the average American knows little about just what courts of equity can do, and sometimes a graphic illustration is the best way of driving a fact home and I am about to deliberately and knowingly violate an injunction, and I tell you when I do this I am subjecting myself to punishment by a court, but it is necessary for me to do this in order to call your attention to one phase of what we call government by injunction. I am an iron moulder by trade and also a member of the Moulders Union. Some time ago, in the State of Connecticut, a company known as the Norwalk Iron Works, discharged a member of the union who had been in their employ sixteen years because he had become a member of the shop committee, and they went to the court and Judge Maltbie issued an injunction which re-

strained the members, the officers, the agents and the attorneys of the Molders Union from mentioning the fact that there was a strike in the Norwalk Iron Works, and in telling you tonight as an American citizen, speaking to other free American citizens, in telling you there is a strike in that plant I am in contempt of court and liable to punishment for it, and I know you men have been charged with the solemn duty of providing a Constitution for the State of Illinois are not going to permit a condition under which a judge can tell the people, "You cannot mention the fact that you have a dispute, you cannot mention the name, you can say nothing or do nothing to protect what you think are your interests."

Now, theoretically, the injunction, as it is issued by a court of equity in connection with industrial disputes, aims to protect property rights. I think theoretically that is so. In actual practice, and that is what most of us are interested in, they accomplish something entirely different. So far as a large number of attorneys are concerned, so far as a large number of employers are concerned, the restraining order is considered the most effective weapon to break a strike that has been devised, and so injunction is used, the temporary restraining order is used for that matter to defeat the strike. In order to accomplish that purpose, the injunctions cover a number of acts which men are restrained from doing. They restrain men from holding meetings; they restrain the strikers from talking to other workmen concerning the strike. In the injunction I just referred to, and when I committed contempt of court in your presence, they restrained me from even stating that a certain plant was on strike. They restrain the use of free speech; they restrain the use of free assemblage; they restrain the disbursal of such funds as the workers had accumulated in times of peace so if an industrial contest arose their wives and children would not suffer. State and Federal injunctions in many States have restrained the payment of strike benefits; in other words, the disbursal of the strike fund which has been accumulated to protect women and children during periods of industrial disputes.

They accomplish another purpose. They supersede courts of law and they are intended—or whether they are intended or not—they operate to take misdemeanor cases and place them in the courts of equity to supersede the other courts, to prevent a man from the right of trial by jury, the right of a trial by his peers, and there determine all the facts; instead of the jury determining all the facts. And so during an industrial dispute, where the restraining order has been issued, an alleged breach of the peace is not subject to the ordinary breach of peace process. The man is not accused of breach of the peace. He is accused of violation of the injunction, of contempt of court, and instead of having that right of trial by jury, he is brought before the court that issued the restraining order and there he is tried for contempt. One of the functions that has been developed under this process has been the elimination of a trial by jury when workers are on strike and submitting them to a trial before the judge who claims that his restraining order has been violated. There is a peculiarity about the injunction which I would like to call your attention to in passing: The injunction as it has been applied in industrial disputes. Regardless of the provisions of the restraining order, regardless of the fact that the restraining order upon examination by a higher court may be set aside; regardless of the fact that the higher court may say that the court of equity had no authority to issue the injunction containing certain terms, nonetheless you must obey that injunction. Until such time as the restraining order has been vacated by a higher court it is the law which governs those who have been restrained, superior to the law of the land, superior to the decisions of the highest court of the State, superior to everything else until such time as it may be set aside. It takes time for appeals and for review. Its value lies in the fact that when its inequities have been uncovered, when its provisions have been vacated by a higher court, those who have been restrained in the exercise of their liberties have suffered all the injury it is possible for them to suffer, because they lost the right of free speech, of free assemblage, to do what under

the law of the land and under the Constitution of our country they have a perfect right to do.

As Americans we believe one man is as good as another. It is right; the Declaration of Independence says so. We have been brought up to believe that, so when anybody preaches class distinction in this country we say that the man who preaches class distinction in the United States is preaching something that is absolutely contrary to the spirit and the letter of our institutions. We are opposed to class distinction; there are no class distinctions that I know of in the United States except those that have been established by courts of equity. State and Federal courts in the United States have established distinct class distinction, giving rise to privileges to one group of citizens which are denied to others, approving of the right exercise of certain methods by one group of citizens and condemning the exercise of those same methods by others.

I want to trouble you with a few cases and those of you who are attorneys will undoubtedly find some interesting facts in following them up. A few years ago there was a strike against the Buck Stove and Range Company of St. Louis, Mo., and inasmuch as the American Federation of Labor believed that the attitude which the corporation had assumed was unfair to labor they said so, and they published in the American Federation's official publication, the American Federationist, a statement to the effect that the Buck Stove and Range Company was unfair to organized labor. The court of equity was appealed to and the court of equity issued a temporary restraining order restraining the American Federation of Labor and its official publication, the American Federationist from publishing the statement that the Buck Stove and Range Company was unfair to organized labor, from publicly discussing the controversy that existed between organized labor and that corporation, and because one issue of the American Federationist had left the press after the Judge had signed the restraining order, Mr. Gompers, Mr. John Mitchell and Mr. Frank Morrison were not only found guilty of contempt, but two of those gentlemen were given sentences for one year, nine months and six months in prison for having published the statement that in their opinion, or the opinion of the American Federation of Labor, the attitude of the Buck Stove and Range Company was unfair to organized labor.

A few years ago when the catalogue houses were beginning to cut in heavily upon the retailers' business the Retail Dealers' Association of South Dakota, organized for the purpose of protecting the interests of those organizations, just organized for protecting the interest of that organization, just as the workers do, and they elected very much the same kind of officers as the trade unions do and they established an official publication as the trade unions do; then they instructed their secretary to write to the manufacturers and the jobbers who sold to the catalogue houses and call their attention to the injury which the catalogue houses were doing to the retailers' business and asked them to inform the secretary whether it was the desire of the manufacturers or jobbers to continue to enjoy the trade of the retail dealers or whether they preferred the trade of the catalogue houses. The secretary of that association compiled a list of manufacturers and jobbers who preferred the trade of the catalogue houses, and they published that unfair list, or which they considered unfair to their members in their official publication, just as the American Federationist had done, and Montgomery, Ward & Company appeared before the Federal Court in South Dakota, Judge Carlin being on the bench, and applied for a restraining order, just as the Buck Stove and Range Company had done, and in a rather lengthy and thoroughly American opinion Judge Carlin refused to issue any restraining order, holding that the retailers had their right to buy where it was to their best advantage and to sell where it was to their best advantage, to organize for the purpose of securing such information and disseminate such information as was to the interests of the retail dealers, and for such damages as Montgomery, Ward & Company might suffer as the result, they were not that form of damages for which there can be any remedy at law, judging it was most necessary to the maintenance of the individual right that the retail dealers should exercise not only the right but the methods which they had. These

two cases are interesting for this reason: In both instances the principle involved was identical; in both instances the application of that principle was identical; in one case the workers were sentenced to jail and in the other the men were commended for what they were doing and upheld in it as being a necessary method in order to protect individual rights to give every man full opportunity to life, liberty and the pursuit of happiness.

I would like to give you two more cases. In the state of Nevada, the mining operators believed that it was to their advantage to have no union miners in their employ, and as the result of some activity the state legislature enacted a measure making it a crime for any employer to discharge an employee because of his membership in a trade union; the mine operators discharged miners and the case came up as to the constitutionality of the law; it was held that the Anti-Black List Law of Nevada was unconstituional because it deprived the employer of essential rights; deprived them of their rights of determining who or who should not be in his employ, and I don't know as I have any quarrel with that decision holding that law unconstitutional.

About the same time there was an organization of building contractors in Lynn, Massachuetts. The building trades in that city were thoroughly organized. It was the contractors' desire to disrupt the workers' trade union, and in order to carry out their purpose, they chose a method of employing non-union men on the buildings, and when the non-union men went to work the union men refused to work with them, and the building contractors went to the court and said, "We are being injured in our right to conduct our business to suit ourselves," and the court issued a restraining order preventing the Building Trade Union from carrying on their strike against the employment of non-union men.

Now, gentlemen, what was involved in those two cases? In the one the right of mine operators to be organized was upheld unquestionably, and in the other the right of the workers to maintain their organization was denied by court of equity; it could not be denied by civil court; it could not have been denied by the legislature and would not have been denied, but because of those peculiar powers which courts of equity are arrogating to themselves in this country, the court of equity was enabled to force men to do things which created a class distinction. What actually takes place when men engaged in an industrial dispute are charged with contempt of court? They are brought into court; there is no prosecutor; there is no judge previous to their having been brought into the court, the judge as an equity judge has assumed the function of legislator; he has chosen to enact certain legislation which is to govern certain men; his edict is the law for those men, as a legislator he assumes his law has been violated; as a prosecutor he even conducts the examination, then as the judge he passes upon his own restraining order, and as jury he determines what the facts in the case are. So we have that extraordinary condition in every case of contempt of court arising in connection with industrial disputes of a man assuming the powers of legislator, of prosecutor, of judge and of jury. Is it any wonder when one individual has assumed these functions that conditions develop in this country that instead of tending to bring our courts into high repute operate in the opposite direction?

As people, we Americans have tried carefully to safeguard our rights; we have never believed there was any man so wise and so good that unlimited power, even for a temporary period, could be placed in his hands alone. In the civil courts we have a judge sitting on the bench, and if we are not convinced that that judge's knowledge of the law or that judge's opinion can be safely trusted, to prevent a miscarriage of justice, to prevent an injury being done to citizens; to prevent any invasion of his rights, we have our Appellate Court, where it is not one judge sitting on the bench, it is three or more. In the United States Supreme Court nine men are there to pass upon the constitutionality of law, and we have more than one man sitting in all Appellate Courts because we are quite convinced that regardless of the honesty and the integrity of a single man it is not safe to leave in his hands final power to decide. But when it comes to the power of a court of equity

we place no safeguard around it. One man, whether he is given that power or not, one man assumes the entire power of determing just what the law shall be governing a few men. Gentlemen, I want to submit to you that is contrary to good government; it is contrary to a condition which brings about a feeling of respect for the court, it is contrary to government by law.

The things which the court of equity restrains in connection with industrial disputes are first, certain inherent rights, secondly, the commission of certain acts which are held to be breaches of the peace. We have our police force, we have our court open for the trial of such cases, and so the United States Government after careful examination of all the facts in the case—after that injunction, however—after all the facts in the case were submitted to it, decided that so far as the Federal Courts were concerned no more such injunctions as had issued in the past could be issued in the future; no more injunctions issued on ex parte hearings, no more injunctions denying the right of free speech, of collective action, of the rights of persuasion no more injunctions that would bring about that disrespect for the courts which had developed so rapidly in our country, which not only influenced the wage earners, but people so much that we were all talking about so-called government by injunction.

Gentlemen, you have it in your hands to determine what the functions of the courts of Illinois will be. You have it in your hands to submit to the citizens of this State whether there will be any class distinctions created between your citizens. You have it in your power to determine whether there shall be equality of rights and privileges or whether the wage earners through the operation of courts of equity will be denied the rights that are enjoyed by others.

I leave this one thought with you. We hear a great deal about the right to organize. I do not think that statement would be made by any responsible man that labor does not have the right to organize. The courts have held we have; the legislatures have held that we have the right to organize, but because of a sentiment that has developed among some employers, the position has been assumed, and employers organized to give practical application to that assumption that although labor has a right to organize, that right will be prevented if it is possible to do so, and they use the courts of equity to assist them in preventing the workers from enjoying a right which is theirs.

Gentlemen, I have taken up more of your time than I had intended. I want to thank you sincerely for the attention you have given to the thoughts I have expressed and the few statements of facts I have submitted to you.

Mr. JARMAN (Schuyler). With reference to the striking of officials, what is your opinion as to whether a strike of that kind can be called?

Mr. FREY. My opinion is that when conditions of employment become so unsatisfactory that the individual is no longer willing to work under them he has the right to quit that employment singly or collectively.

Mr. JARMAN (Schuyler). To make it concrete, do you believe that all sheriffs of the State of Illinois would have a right or should have the right by agreement to quit or resign, or go on a strike and leave the State without the protection of law such as sheriffs exercise, no matter what the conditions are?

Mr. FREY. If my understanding is accurate, the sheriff takes an oath of office; he takes an oath to serve the people under certain conditions, and therefore he does not occupy the same position of a man who has no direct contract with the government to do certain work.

Mr. JARMAN (Schuyler). Do you believe the policemen of a city have a right to agree to strike as a body and leave the city without the proper officers for the enforcement of law?

Mr. FREY. I believe that it is an exceedingly unfortunate thing when a group of men who are employed to enforce the law refuse to carry on their duties, but I believe that conditions can become so intolerable that even they are justified in order to force public opinion to investigate those conditions that officials have refused to consider, that even they are justified

in saying that until such time as you look into our grievances we will not continue to serve you.

Mr. HAMILL (Cook). Would you think it would be acceptable to the organized labor of the country or the State to add to this first section of proposal 232, so it would read about as follows: "The labor of a human being is an attribute of life and the right of every man or woman to work upon terms acceptable to him or her and his or her employer in any gainful occupation not forbidden by law is hereby guaranteed?"

Mr. FREY. On listening to what you have just read, my first impression is favorable; before committing myself definitely I would want to analyze it.

Mr. DEYOUNG (Cook). Your principal complaint of all is that a court of equity has entered the domain of legislation so far as the issuing of writ of injunction in industrial disputes are concerned?

Mr. FREY. Yes.

Mr. DEYOUNG (Cook). Another one is that while an injunction has been issued pending such a dispute and on an appeal to a court of review, the injunction remains in force and anyone who violates it may be punished for contempt?

Mr. FREY. Yes, without a trial by jury.

Mr. DEYOUNG (Cook). The fact that the injunction remains in force pending the appeal and there may be punishment for contempt is another complaint?

Mr. FREY. Yes, that is another objection.

Mr. DEYOUNG (Cook). And the third complaint you make is that courts of equity, by the exercise of this jurisdiction, have created class distinctions that operate peculiarily in industrial disputes?

Mr. FREY. To the disadvantage always of labor, to the advantage always of the employer.

Mr. DEYOUNG (Cook). You recognize of course, if a court of equity, for instance, should issue a writ of injunction in a divorce case against the husband that if he took an appeal and violated that injunction writ, pending the appeal, he would be subject to punishment for contempt?

Mr. FREY. I assume that he would be.

Mr. DEYOUNG (Cook). And the practices of the court in the one case and the other would be exactly alike would they not?

Mr. FREY. Yes.

Mr. DEYOUNG (Cook). Now, speaking of the protection of property. Suppose you owned your cottage, or it might be something more pretentious, it is your castle, the law protects it, I approach your door and I say I am going to burn your house down. If you are a man of just modest means it would be a great comfort to have me punished under the law with reference to arson in this State, wouldn't it? Don't you think you would like to have in your case something in the way of an interposition by a court that is competent to do it, to say to me, "You stop and go no further in your unlawful design"—don't you think that there, as well as in other cases, an ounce of prevention is worth a pound of cure?

Mr. FREY. I believe the Police Department should immediately pick up a man the very moment it was clear he had an intention to burn a house. I do not believe a court of equity should have the power to restrain the committing of crime. I believe that belongs to other functions of the government.

If those are all the questions, I thank you for your attention and patience. (Applause.)

CHAIRMAN SNEED. The next speaker will be the president of the State Federation of Labor who most of you are either personally acquainted with, or by reputation at least. I introduce Mr. John H. Walker, of Springfield.

Mr. WALKER. Mr. Chairman and gentlemen of the Convention. It is natural for men to take advantage of the experiences they have had in anything that arises, and do the thing they most desire to do, and so we have had the experience today of when a lawyer was on the stand, a man

who is familiar with the law cases, law terms, law procedure being questioned on the industrial aspects and the physical aspects of a matter being considered by you and then when the men who are familiar with the physical and industrial aspects were on the stand being questioned about the legal, constitutional and the law processes in connection with it. Now, I have no objection if that is the thing that the delegates to the Convention want to do, of having you do the same thing to me, but I submit that in order to get the greatest amount of information from the sources that can give it best it would have been better to have made the inquiries as to the legal aspect of the situation and court cases of the lawyer, and asked the questions as to the effect on the workers actually in the industry of the men most experienced on that phase of the matter.

The hour is getting late and the question of origin of the injunction processes and its development has been pretty thoroughly discussed, and I want to devote what little time I have more than anything else to a consideration of the thing as it actually involves and affects working people in our State and the industries in our State, with the hope of giving what little light I may be able to give on it and what I may be able to do in assisting the Convention in coming to an understanding of this matter so that in their action they might do the thing which will be best for the people of Illinois.

Before saying the things I had rather decided to say prior to coming here, I want to deal with one or two aspects of the matters that were being considered by the previous speakers and the delegates, in which I did not just feel satisfied with the impressions that might have been left when they were through considering them.

One of them is with reference to the question that was asked whether or not in the event a strike is on it might have the result of injuring or bringing about a state of hunger or state of cold, which means suffering for the people, if the court ought not to have the right to compel those strikers to go to work, because that is what is meant to produce the coal, and to transport the articles that people need and consume to satisfy their hunger. All left one impression when considered in connection with a strike of the miners. Now, that is a matter in which not only the so-called public is concerned but with which the miners themselves are concerned. There are about thirty thousand miners in the Belleville district who were involved in that strike, and who for a year prior to going out on strike from the time the armistice was signed to the time they went out on strike had been getting on an average of eighty-five cents a day to keep them and their families in the face of the present high cost of living. There was not any injunctive process or any court procedure resorted to by those concerned about the welfare of humanity or the people generally to relieve the suffering on the part of those miners and their families. There was not any suffering that would come on account of the strike to those men or any one else that they were not already suffering from and that their efforts were not directed to relieveing themselves from, and the only way they could relieve themselves from those conditions was by making an effort to remedy the conditions that obtained, and as they were not able to get an agreement without cessation of work they came out on a strike.

Gentlemen, the thing that is at the root of this whole proposition is the industrial conditions and the commercial conditions and the processes through which working men and their families go in connection with industry and commerce by which they make a living, and under our present arrangement private individuals own the industry as their personal property and are given the right to operate them if they want to operate them, and after they do operate them they can sell the product that is being produced, or not sell the product just as they see fit, and that has within it as great a possibility of inflicting suffering on the people as has the stoppage of work on the part of workers for this Convention that will require the owners of those industries to operate them if they do not want to operate them, or to sell the products from those industries after they have been created if they do not want to sell them; there is no proposition pending that requires

them in their operations to be governed by the welfare of the men who work in those industries, or their families or in the selling of their products to be governed by the welfare of the people who buy them.

In addition to this condition obtaining, that if they were compelled to operate them whether they wanted to or not and if they were compelled to sell the products that came from them whether they wanted to or not, it would not involve the physical being of those employers either as owners or operators of industry or as merchants in selling their products; it would not establish any species of slavery on the part of those employers or on the part of those acting in the capacity of merchants even though the law did require them to operate the industry and sell that product against their wishes. But with the workers, although their right to cease work if it was given to them unrestricted would not involve any greater menace or possibility of inflicting suffering on the people if they did cease work than what the employers and merchants can inflict on them by not permitting the industries to be operated or not to sell their product, and if you compel the worker to go to work you are compelling him to sell his labor, and under conditions that some one else names. And because he cannot separate his labor from himself, you are imposing a species of slavary on him in that regard.

I do not think there is any good man or woman in the world but what if this condition can be obivated, the condition of strikes and curtailing of supplies of the things that the people need, without imposing a worse condition, I do not think there is a good man or woman that does not want to find that means or prevent that curtailment and as sure to the people the things that they need. But to continue the right personally to own the industries and operate them just as they please on the part of owners would continue the right of personal ownership, and the right on the part of those persons who do not have to sell—only as they please, and any attempt to deal with the situation solely from the point of view of the workers, in my judgment is impossible without imposing on the workers conditions that are not being imposed or would not be imposed on the employer or merchant. And if you want to assure the operation of those industries and the supplying of the people with the things they need, if you want to do justice to all concerned, providing that the workers be compelled to continue to work and require the employers who own the industry to give to the workers the things which as a matter of right they should have and to require the merchants to sell to the people for the prices that they should sell; all that involves a complete transformation of our present method of operating and owning industry and commerce, and it is a bigger proposition than any we have been considering up to this time, and I say to you that we will have to work out a new relationship. I do not think it can continue in the present way without danger to people generally, the innocent by-standers being required to suffer because of the acts of the men who are involved in those industries. I do not know whether it is possible to do this, but in the working out of the problem it must be done in a way that will not bring about greater evils than develop upon the people in the disputes now.

Basically, there is no law or there is not any relation established today that requires an employer to pay a worker the full value of his labor when he sells it. The employer has a legal right, and society permits it, to wring the last dime out of the worker and pay him just as little as he can possibly for doing that labor, and there is no law or rule of society that requires a merchant to sell the necessaries of life for the actual value, or to give that laborer the full value of his money when he spends it buying the necessities of life. Merchants have the right to wring the last penny that they can out of the consumer when he goes to purchase the necessities of life and give him little in return for that money, and the selfish interest is a thing that is operating always to have the employer pay the worker the least he can for the labor that he does.

We have to find some means of working out this problem of protecting the worker in selling his labor before he should be required to perform that labor when he does not want to. The least we should do is to see that he

gets what is right before we require that of him, and I think also before we can do justice in these matters that the merchant must be required to sell the necessaries of life at the price that he should receive for them because these things are so involved with each other that you cannot separate them. That the employer should pay wages that the persons are actually entitled to and in buying the necessaries of life merchants should charge the price that is reasonable and just.

These are the things that we have to deal with in a practical way and the discussion with regard to legal technicalities may go on forever you may get all the satisfaction you can out of these things, but if you do not deal with the actual practical problems in the way that will bring about the thing that is right we shall continue to have these troubles and no one knows where it will end. Everybody is concerned about that who knows what is going on.

In our State here we have between ninety and one hundred thousand men working in the mines. I started to work in the mines of this State at the south end of Coal City, before I was ten years old. We used to work ten, twelve, fourteen, sixteen, sometimes thirty-six hours; I have worked seventy-two hours at a stretch. We worked in bad air, under dangerous conditions and our wages were so low we were required to work to the limit of physical capacity to make the poorest kind of living. We lived in company houses; if we did not we could not get a job; we traded in the company stores; we discovered very soon we were unfortunate in the kind of deal we got. There was hardly a phase of our life we did not have to submit to the will of the company at that time in order to retain a job and the chance to make a living at all. We established our organization by fighting and in the cessation of work, and there are records of the mining industry in the Capitol building now which are available to you gentlemen that will show there were about six miners out of every thousand killed in mines by accident.

As the result of the establishment of our organization, we work eight hours a day and we get about three hundred per cent more wages for the eight hours than we used to get for the average twelve. We have got better air, not as good as it should be, maybe, but considerably improved. I am not speaking of this except as I speak from experience. My old father is in Westville now, and has not been able to work for eighteen years; he is physically as well as I am except that his bronchial tubes and lungs have been eaten out by gas, smoke and bad atmosphere.

Today there is an average of less than two and one-quarter men killed out of each thousand per year in the mines that means almost four hundred lives that we save as the result of safety appliances we have got through the use of our power in the mines of Illinois, and there was not a single one of those improved conditions established voluntarily on the part of the coal operators. We had to fight for every one of them, and it meant the men's actual lives, and I say that with no disrepect to the coal operators in Illionis. I have had business relations with them for a period of twenty years and I think, taking them as a whole, that they will average up as being a bunch of as decent lot of men as you will find in other walks of life, but they are controlled by economic conditions and their interests are selfish interests. The reason they did not want to give us greater safety conditions was because they would save all it would cost to make those conditions safe, and that is the reason I cited the case of my father working in bad air; he is not the only one, there are thousands I believe in our country that have been unable to work, who have become helpless and died years before their time simply because they have had to work in bad air, and the operators save all it would cost to remedy those conditions.

One of the questions that was asked is that if an employer had discharged some one, or the worker himself had quit, and it meant in the same sense a strike, they had severed their relationship, and the employer had no claim on him as a worker, under those circumstances if it was not unjust for a worker to attempt to persuade others not to take that job. There is no way for a worker to get a living except by selling his labor, and if I am

living in a town and have a family and my home there I cannot leave without a great deal of inconvenience and expense and some time suffering to them and me. That employer owning that industry has to have some one working in it in order that it be of any value to him, and even though the workers quit that job and there is no relation of employer and employee, the employer still has an interest in him as a prospective employee and the worker has an interest in that job as a prospective job for himself, and he knows the conditions of employment, the wages and hours, and if the employer can get him to go back at his terms he wants him to do it, and if the worker can get the employer to give him the terms he wants he is glad to go back and work. One is seeking the job and the other is seeking workers. The employer is seeking men to labor that will enable him to make a profit and the worker wants the kind of job that will give him a wage that he believes will give him what he wants out of it. Their interests are so strong indirectly that they have an interest mutually in that proposition. There are so many angles to this thing and the viewpoint of the worker is so different from the employer that they cannot be considered in the same sense at all.

In the matter of an injunction, restraining a man from burning down my house, I do not know of a thing that the injunction judge can do by injunction that the legislature cannot do to protect me, and if after the judge had issued the injunction he burned down my house anyhow I could not be a blamed bit better off. It would mean the same thing to me after my house was burned down.

The speakers here represent not only the Illinois State Federation of Labor, which is composed of a membership of three hundred twenty-five thousand, but they also represent directly every other labor organization in this State that is affiliated with the American Federation of Labor, and in the State that means two hundred fifty or three hundred thousand more members, and then they also represent through direct affiliation in their legislative capacity the Railway Brotherhood of this State which numbers somewhere between one and two hundred thousand men and women; those are the men and women they represent, and there is not anything they can be concerned about more than this proposition that involves the facts that we are considering now, and I do not know of anybody else in our State that is not affected directly or indirectly with it and I cannot conceive of anything that this Convention can handle that would be of more importance as it affects the people of this State than the problem you are dealing with now. I think it is the most vital problem you can deal with.

If the action of this Convention results in the adjustment of these problems on an honest basis, which will make for business success and for prosperity, you will have done a great work, but if the action of this Convention results in the workers of this State feeling that the conditions creating injustice and wrong are continued, there is not anything that will create more trouble in the State than that action, and so I believe you can well afford to take all the time necessary and to go to all the pains and trouble necessary to get all the facts with reference to what this thing means before you act on it, and I believe that more depends on your using good judgment and doing the thing that is right than everything else that you will do in this Convention will mean.

You had a gentleman appear before you some days ago, and I got a copy of his statements, a verbatim record furnished by the official stenographer of your Convention, in which he was advocating the creation of Industrial courts by your Convention. I am speaking of Governor Allen, and in the course of his remarks he says that in the last thirty-three months there have been something like three hundred sixty-four strikes in the coal industry in the state of Kansas, and he went on to say things that could not help but leave an impression in his judgment it was because of the organization being controlled by radical leadership, and in that connection he mentioned Mr. Howat, president of the organization in making that statement. I am somewhat familiar with the organization, and I have known Mr. Howat personally for the last fifteen or eighteen years, and I have worked with him in the

mines, both in the thin veins and the thick veined mines in Crawford County as well.

I will say to you it is a matter of court record in the state of Kansas, that the president of the coal operators association admitted under oath on the stand, in a sworn statement, that he paid twenty thousand dollars to bribe a man to commit perjury and swear away the good name of Alec Howat and destroy him in his standing with the miners of that state, and the result was that Howat resigned that job and was out of that posiion fifteen years because of that statement that was made. This is not hear say, this is the court record, the sworn statement out of the mouth of the gentleman who paid the money to bribe the man to commit perjury. I am saying that to you for the purpose of making clear to you that the president of the coal operators' association elected by the other coal operators to that job may have done, in the light of his doing this thing, unwillingly, he was forced to do it—he might have done some other thing in the operation of his mines and with the machinery of his operation, because of the position that he held that might have been unjust and wrong, and that was the cause of some of his strikes, and it might not have been radical leadership and it might have been conditions and things that he did to men under his direction that were responsible for the strike.

He made the statement that it had been ten years since Howat worked in the coal mines of Kansas. The facts are that he started the last time in the position that he has now on the first day of April, 1916, four years ago. And in making that statement he said Howat had been working the miners for that length of time, leaving the impression it was only for the money he was able to get out of the miners that he continued his work. I want to say to you that the association this gentleman represents, the coal operators' association, offered to give Howat to my personal knowledge, more than ten years ago, three times the salary he was getting from the miners if he would go to work for the coal operators, and if he was only serving his selfish interests Howat could have served that selfish interest to much better advantage by going to work for these gentlemen and they would have been glad to have employed him notwithstanding the things they said about him. I am saying this to you because Governor Allen's statements in regard to that reflect on other men in the labor movement. I can also say to you that Howat is not the only man that could have gone to the other side and with very great profit to him financially. The president of the Illinois Miners' Union, to my positive knowledge, could have gotten ten thousand dollars a year with an unlimited expense account if he had wanted to go. It is eleven years ago since I was offered that salary if I would go to that job. There is not a coal operator in the State that has not offered me better wages if I would go with the company and I could have gotten a political job, I believe, with more salary than I am getting now (Laughter.)

Governor Allen also made the statement, and he seemed to get a great deal of pleasure out of it, that the miners' association, during the time they had these three hundred sixty-four strikes had spent one hundred fifty-seven thousand dollars, and I think it was something like seven hundred dollars they had gotten in value out of the strikes they had had and had lost between one and two million of dollars.

I don't know how he figures it out, because if you don't work for anything you have not lost much in wages.

I want to quote from a statement from the secretary of the Illinois miners delivered to the convention held recently in Peoria. The Kansas miners have the same provision practically in the way of providing benefits to their members, and although I have not the figures from the Kansas miners' union this statement from the Illinois miners' union would apply almost in the same way to the Kansas miners' union as it does to the Illinois miners' union, and I want to read you what it has meant in improving working conditions, wages, hours, home surroundings and everything that goes to make up life. The total amount paid in for taxes for the entire twenty-four months is $165,020.06. The total amount paid in for assessment is $1,356,661.09, making the total amount paid in for revenue $1,922,681.15. We also find the total added membership carried on our books during this period

to be 91,557. The average amount paid in per member is $21.00 for the two years. For one year it is $10.50. For one month is amounts to 87½c, and for one day it amounts to 2 92/100 cents. Some of our memebership paid in more while others paid in less, but in this 2 92/100 cents is included the revenue paid in by the officers and the field workers as well as that paid by those earning the minimum wage.

They received for death benefits $736,865.58; for commissary donations $658,510.00; for relief and aid $18,342.65, making a total of $1,413,718.23. This does not include the $11,203.14 fined refunded nor the $99,445.48 for delegate salaries and expenses nor the $11,000.00 donated to the sub-districts but merely money mentioned for the items referred to above.

Again using the figure 91,557 total average membership as the divisor we find that the average amount paid back per member in the two years is $15.44, for one year $7.72 and for one month 64⅓ cents. This amount subtracted from the amount paid leaves the actual average cost per member for the twenty-four months $5.56, for one year $2.78, and for one month 23 1-6 cents; in other words in the last two years it has cost our membership on an average of less than the price of a one cent postage stamp per day to operate and maintain the largest and strongest organization within the jurisdiction of the United Mine Workers of America.

In my opinion this is a pretty fair record and gives answer to our critics both within our ranks and those on the outside that we are well able to handle the financial as well as other affairs of the organization with at least a reasonable degree of good business judgment.

Governor Allen says there have been no strikes in Kansas since the law went into effect. I think there are more miners on a strike in Kansas today than there was in any given time before that went into effect; I do not think there has been any diminution in the number of men on strike in Kansas as the result of that law. He spoke of a strike being declared as a protest against the enactment of that law, that was called for the purpose of protesting against its going into effect and that he called in several of the leaders and explained what he meant, and the miners said they had had a blue Monday because they had had a pay day Saturday and they were going back to work and they went back to work. In making this statement he said they had enforced the prohibition law in Kansas. If that statement was true, I don't see how they could have a blue Monday in Kansas, so in making that statement if it is true there must be something wrong. The facts are that that Monday was a religious holiday for the nationality of people who composed a large part of that village and they were idle because of the religious holidays, and the newspapers carried the story that there was a strike declared as a protest against that law, and the strong arm of the law would crush this strike, and they found the men were idle as the result of the religious holiday, and the statement that the Governor made simply made him ridiculous.

Governor Allen also made the statement that the mines in Kansas were much deeper than the mines in Illinois, that they were from twelve to fifteen hundred feet deep. There is not a coal mine in Kansas more than three hundred feet and most of them are not that deep. The mines in Illinois are twice as deep. He also made the statement that the operators could not meet the price of the coal operators of Illinois because of the unfavorable mining conditions in Kansas. I am not blaming the Governor for making as good an explanation as he could of the cost of mining coal while he was in charge of it, because I have been informed that it cost a little better than two hundred dollars a ton for the coal while the Governor was running the mines.

The Governor says that it not only prevents the miners from striking but it will require the mines to operate with reasonable continuity, it prevents the mines from striking. Now, to any man that knows anything about the mining industry, that statement is ridiculous; it stamps the man who makes it as either not knowing anything about a coal mine and the coal industry or else not telling the truth. The productive capacity of the mines in this country is twice the needs for coal consumption in this country, and

how are you going to operate those mines on an eight hour day at the present wage with a reasonable degree of continuity? It cannot be done.

I want to tell you what we have done, just briefly in the way of co-operative stores, and what our people could do if they had the chance. We started with $300 on the 5th of December and last month we did about $160,000 of business; we have in the banks over $100,000 and we have about 150 stores in operation in the State. This means if we can operate these stores ourselves we can save whatever cost we were paying retail, and if we can sell wholesale it will mean the middle man's profit is cut out. I believe, if we can do this, it offers a practical solution of this problem. If we can work out some arrangement that will give our people an equal opportunity in protecting their interests, and if the employing interests could be induced to refrain from profiteering and to give their services either in the supervision or operation of industry or in the supervision or operation of commerce, and that is something they would be clearly entitled to—if that kind of condition could be established in our country and the people could be convinced that the right thing is trying to be done—I believe we will obviate strikes and I believe we will work out our problems in the right way.

I know it looks like speaking about yourself but the last time that Theodore Roosevelt was in this State he came to Springfield. He had heard of this movement and he invited myself with some others who knew something about it to discuss the matter. He said there was something, that some solution of our industrial problems had to be found; some solution of our commercial problems had to be found; that it was the duty of every citizen to see if there was some solution of these problems. We discussed it about two hours on the porch of the executive mansion here and when we got through he told me, he said "I believe that proposition is indeed the practical solution of our problems. I don't want to say on the limited knowledge that I have positively that it is, but you have satisfied me that it is worth considering, and when I go back I intend to study it, and if I find that it is as good as my present convictions lead me to believe I intend to advocate that as one of the solutions of our problems." Unfortunately, Mr. Roosevelt died. If he had lived we would have had the benefit of his strong and powerful influence to help out in trying to arrive at a solution of our problem, and I believe that if men and women of our country would put aside selfish motives and try to see these problems settled and try to avoid the suffering in the future that has happened because of those conditions in the past they will lay the foundation for better conditions and for the welfare of our people, and it will have an influence throughout our whole nation in the same direction. (Applause.)

Mr. DUNLAP (Champaign). I move that the committee do now arise and report progress.

(The President in the Chair.)

Mr. SNEED (Williamson). Your Committee on Industrial Affairs and Labor desires to report progress and asks permission to sit again.

(Report adopted.)

Mr. DUNLAP (Champaign). I move that the thanks of the Convention be extended to the speakers who have addressed the Convention of the Whole today.

(Motion carried.)

Mr. GREEN (Champaign). I move you, Mr. President, that the Convention do now adjourn.

Whereupon an adjournment was taken by the Convention to Thursday, April 8th, A. D. 1920, at ten o'clock a. m.

THURSDAY, APRIL 8, 1920.

10:00 o'Clock A. M.

Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend Walter Aitken.

THE PRESIDENT. The Journal of Thursday, April 1, 1920, was placed on the desks of the delegates on yesterday, and is now subject to correction. There being no corrections proposed, the Journal of Thursday, April 1, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

The Committee on Military Affairs having presented its amended report, with the recommendation that its report be adopted, and said report having been ordered to lie on the table and be printed:

Your Committee on Rules and Procedure recommends that said amended report be now taken from the table and placed on the general orders; and

That consideration of the said report of the Committee on Military Affairs be made special order of business for consideration in Committee of the Whole under the general orders of this day.

(Report adopted.)

Mr. GALE (Knox). The Committee on Revenue, Taxation and Finance, makes the following report, and moves its adoption.

Your Committee on Revenue, Taxation and Finance, to which was referred Proposal No. 323, being a Proposal to provide for the improvement of roads, highways and bridges, in whole or part, by special assessment, introduced by Mr. Dunlap, reports said Proposal No. 323 back to the Convention with the recommendation that it be re-referred to the Committee on County and Township Government.

GEO. G. GALE, *Chairman*,
DOUGLAS SUTHERLAND,
ALVIN WARREN,
ABEL DAVIS,
FRANK S. WHITMAN,
MARTIN J. O'BRIEN,
WATTS H. JOHNSON,
THOMAS C. KERRICK,
Committee.

(Report adopted.)

Mr. DUNLAP (Champaign). I desire to present a report from the Committee on Agriculture.

Your Committee on Agriculture reports a proposal to authorize legislation for the conservation of forests and to provide for the taxation of forest lands, being Proposal No. 355, and recommends it be placed on the general orders.

(Signed) WILLIAM S. GRAY,
LAWRENCE C. JOHNSON,
WM. J. HOLLENBECK,
WILLIAM STEWART,
CHAS. V. PARKER,
HENRY W. MEINERT,
CHAS. H. IRELAND,
SYLVESTER J. GEE,
J. MACK TANNER,
WM. H. CRUDEN,
H. M. DUNLAP,
GUY L. SHAW,
FRANK S. WHITMAN,
ALVIN WARREN,
Committee.

(Report adopted.)

THE PRESIDENT. Under the rules, the report of the committees will be ordered printed, and lie upon the table.

Whereupon the Convention further proceeded upon the order of report of select committees, first and second reading of proposals, motions and resolutions.

Mr. ELTING (McDonough). I have a petition from the citizens of Hancock County on the question of the reading of the Bible in the public schools.

THE PRESIDENT. Without objection, the petition will be referred to the Committee on Bill of Rights.

Whereupon the Convention further proceeded upon the order of unfinished business and general orders of the day.

THE PRESIDENT. The report of the Rules Committee was adopted, which recommended that, upon the general orders of the day, the report and the supplemental report of the Committee on Military Affairs be taken up today in the Committee of the Whole. The Convention therefore will resolve itself into the Committee of the Whole for the purpose of considering the report and the supplemental report of the Committee on Military Affairs. The Chair designates Delegate Beckman, Chairman of the Committee on Military Affairs, to act as Chairman of the Committee of the Whole.

(Chairman Beckman presiding.)

CHAIRMAN BECKMAN. Will the Clerk please read the former proceedings of this Committee, and the report of the Committee.

(Report and proceedings read.)

Mr. GILBERT (Jefferson). I desire to withdraw the motion to amend Section 6 made by me on the former sitting of the Committee.

CHAIRMAN BECKMAN. Let the clerk read the supplemental report of the committee.

(Report read by the clerk.)

Mr. COOLLEY (Vermillion). I move that the report of the Committee on Military Affairs be concurred in.

CHAIRMAN BECKMAN. Are you ready for the question?

VOICES. Question, question.

(Section 4 adopted.)

CHAIRMAN BECKMAN. Will the clerk please read Section 6?

(Read.)

Mr. NICHOLS (Ogle). The Committee on Military Affairs offers the following substitute for this section as read: "No person shall, because of conscientious scruples against bearing arms, be exempt from military service in any capacity that the Governor declares to be non-combatant." I move the adoption of this substitute.

Mr. WALL (Pulaski). I desire to inquire of the Chairman of the Military Affairs Committee whether the Committee intended for this section to exempt those who had conscientious scruples from the combatant service.

CHAIRMAN BECKMAN. Yes, from the bearing of arms, but not from any service other than the bearing of arms. We intend to require of every man a service of some kind. Let us have the section read by the clerk.

(Read.)

Mr. WALL (Pulaski). My inquiry is whether the committee intended by this language to exempt those who had conscientious scruples from bearing arms in the combatant service, and it is understood if the members of this Convention should adopt this, that this language does exempt a person who has conscientious scruples.

CHAIRMAN BECKMAN. Will Mr. Miller (Cook) answer the question of the Delegate from Pulaski?

Mr. MILLER (Cook). This new proposed Section 6 does not of itself grant any privileges or exemptions to anybody, but limits the legislature by saying it shall not grant them certain kinds of privileges. It is not a grant to the so-called conscientious objectors but a limitation upon the power of the Assembly; in other words, they are singled out by this new proposed Section 6 for a limitation upon any right to be given.

Mr. TRAUTMANN (St. Clair). From what has been said by the Delegate from Pulaski (Wall) and the Chairman of the Committee of the Whole, if that is the intention of the Military Affairs Committee, I do not understand why you desire to change the wording of Section 6 as printed, because that specifically states what you intend this provision should do, so I do not think, the way I read it, you accomplish the object you intend to accomplish by the amendment this morning, but you nullify that very position, and I would like to be enlightened on that point.

Mr. CARLSTROM (Mercer). I shall vote for this substitute, on the understanding that Delegate Miller has correctly interpreted the meaning of the language. That is the way I understand it.

I think his interpretation is correct, and I think that is a fair position for us to take; the legislature has the power to say that any person shall be exempt from military service because of conscientious objections in any branch of the service that the Governor shall declare to be non-combatant.

Mr. MILLER (Cook). May I say just this additional word in support of the motion to substitute Section 6: The section as already adopted authorizes the legislature to grant such exemptions as it sees fit. Now, of course, under those circumstances there is no occasion for again granting to the legislature the power to exempt any particular class, yet Section 6 as reported begins as follows: "Persons having conscientious scruples against bearing arms," and so forth, "may be exempted by the legislature." Now, that right or power in the legislature to grant exemptions of that kind has already been conferred in Section 1, and if we leave Section 6 as is reported, we have merely singled out this particular class of persons, to-wit, conscientious objectors, as a subject of exemptions twice; first in Section 1, and again in Section 6. I see no reason why this particular class of persons should be singled out among all classes, among classes which may require to be exempted, the crippled, the old, the lame, the halt and the blind, single out one particular class as a class by itself, which the Constitution recognizes as a particular class which shall be exempted. Therefore, this new section instead of again authorizing the legislature to exempt this particular class, limits the right of the legislature. Under Section 1 the legislature has power to make any exemptions it sees fit, and Section 6 as now proposed simply limits the right of the legislature to exempt this class of persons, to-wit, conscientious objectors, and it seems to me that is much preferable to singling out this particular class of persons as a special object by authorizing the legislature in two different sections to exempt them. Section 1 authorizes the legislature to make any exceptions it sees fit.

Mr. TRAUTMANN (St. Clair). Is it the intention of the Committee in offering this amendment to Section 6 to eliminate that part of Section 6, which is the first half of it, because they thought it was a repetition of the language in Section 1?

Mr. MILLER (Cook). Yes, that is the object. In other words, to be a limitation upon the power given to the General Assembly in Section 1.

Mr. TRAUTMANN (St. Clair). On the theory the legislature had the right to exempt in Section 1, and it was not necessary to repeat that in Section 6?

Mr. MILLER (Cook). Limiting it rather than to grant it again.

Mr. DUPUY (Cook). I move you, Mr. Chairman, that Section 6 be added as a part of Section 1 with the word, "provided" put in between.

Mr. RINAKER (Macoupin). I move as a substitute for the amendment as offered the following: "Provided the legislature shall not exempt from military service in any non-combatant capacity any person having conscientious scruples to bearing arms." I move that as a substitute for the amendment offered.

Mr. DUPUY (Cook). I think that states it in better language.

Mr. LINDLEY (Bond). If we want to consider Section 1, we must first move to reconsider the motion by which Section 1 was adopted. Before Section 1 can be adopted, I move we reconsider the vote by which Section 1 was adopted.

Mr. MORRIS (Cook). Point of order. We cannot entertain a motion to reconsider during the pendency of the motion to adopt Section 6, and that is his motion.

CHAIRMAN BECKMAN. The point of order is well taken. May I ask you to withdraw your motions, so that we may go back and reconsider Section 1? The motion of Judge Lindley is now renewed.

Mr. SIX (Pike). Before going to Section 1, I wish to speak of the advisability of so doing. The purpose of going to Section 1 is to open up, as I understand the motion, the proposition for the purpose of giving to the legislature the power which is given to the Governor by this proposal. The Governor is the head of the military establishment in the State of Illinois; to take from him and give to the General Assembly of two hundred members the right to determine a thing which only central authority can consider and successfully decide in military affairs, is to make a mistake. I think to go back and open up Section 1 and add this, together with the amendment which the Delegate from Macoupin (Rinaker) has proposed, would be a mistake. Military affairs can be administered only by central authority. I take it that Section 6 as proposed conserves that authority.

Mr. TRAUTMANN (St. Clair). A point of order. A motion to reconsider is not debatable.

CHAIRMAN BECKMAN. The point of order is well taken.

(Motion lost.)

Mr. LINDLEY (Bond). I move to strike out Section 6 entirely from this report, and this amendment too, and then we can go back.

Mr. NICHOLS (Ogle). I make a motion to table this.

Mr. HAMILL (Cook). A motion to lie on the table is not in order in the Committee of the Whole.

CHAIRMAN BECKMAN. The point of order is well taken.

Mr. SUTHERLAND (Cook). As a substitute for the motion of the Delegate from Bond (Lindley), or as an amendment to that motion, I move that Section 6 of the original report be stricken out, and that Section 1 as presented by the Military Affairs Committee be substituted therefor.

Mr. RINAKER (Macoupin). It seems to me that this motion to strike out, as proposed is proper, and that we then might again consider the question of whether or not these two sections are not better combined in one than to have them as proposed, in two section.

Mr. SUTHERLAND (Cook). I withdraw my motion.

Mr. REVELL (Cook). I wish to make a motion as a substitute for all pending motions, that the amendment, as part of Section 1, be now reconsidered.

Mr. W. A. JOHNSON (Bureau). I rise for information: How many motions are there now pending before this committee?

CHAIRMAN BECKMAN. One motion, the substituting of Section 6 as written, for the motion of Mr. Lindley, to strike out. That is the motion pending.

Mr. W. A. JOHNSON (Bureau). Is there room to make another motion? I move you, in lieu of Section 6 and Section 6 as amended, that the following be adopted as a substitute for all: "Provided, no person shall be, because of conscientious scruples, exempt from military service in any capacity that the Governor shall declare to be non-combatant," and it covers the whole field.

Mr. TRAUTMANN (St. Clair). Point of order. The Delegate cannot offer an amendment to Section 1; it is not before this Committee.

Mr. MILLER (Cook). I have been persuaded by these gentlemen to withdraw this motion, for this reason: I think the quickest way to get at it is, to strike out Section 6 as originally reported by the committee and then reconsider Section 1, and then add this proposed Section 6 to Section 1. That can be done in a few moments.

CHAIRMAN BECKMAN. The motion is on the reconsideration of the vote by which Section 1 was adopted.

(Motion carried.)

Mr. JOHNSON (Bureau). I move you now that Section 1 be amended so as to read as follows: "Provided, no person shall, because of conscientious

scruples, be exempt from military service in any capacity that the Governor shall declare to be non-combatant," and I move the adoption of the amendment.

Mr. MILLER (Cook). As a substitute, I move this proposed Section 6 worded as it is reported, be added to Section 1, with the word "Provided," added.

(Motion carried.)

Mr. TRAUTMANN (St. Clair). I now move that Section 1 as amended become a part of the Constitution.

(Motion carried.)

Mr. LINDLEY (Bond). I move that this article of five sections be adopted and recommended to the Convention.

(Motion carried.)

Mr. REVELL (Cook). I move that the Committee do now rise and report progress to the Convention.

(President Woodward presiding.)

Mr. BECKMAN (Cook). Your Committee of the Whole begs leave to report it has under consideration the report of the Committee on Military Affairs, Proposal No. 339, and that Sections 2, 3, 4 and 5 thereof were recommended to the Convention for adoption, and No. 1 of such Proposal 339, as amended is recommended to the Convention for adoption.

THE PRESIDENT. The question is on the concurrence on the report of the Committee of the Whole.

(Report adopted.)

THE PRESIDENT. Under the rules, the report of the committee will automatically be referred to the Committee on Phraseology and Style, and it is so ordered.

Mr. GREEN (Champaign). I move we adjourn.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Friday, April 9, 1920, ten o'clock A. M.

FRIDAY, APRIL 9, 1920.

10:00 o'Clock A. M.

The Convention convened pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend Walter Aitken.

THE PRESIDENT. The Journal of Wednesday, April 7, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no correction proposed, the Journal of Wednesday, April 7, 1920, will stand approved and it is so ordered.

Whereupon the Convention proceeded upon the order of the special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules submits a report.

COMMITTEE REPORT.

Your Committee on Rules and Procedure recommends as a Special Order of Business under General Orders of the day on Wednesday, April 14, 1920, the further consideration in Committee of the Whole of Proposal No. 232.

Mr. HULL (Cook). What does that contemplate? A further hearing in Committee of the Whole?

THE PRESIDENT. With the indulgence of the Convention, I will explain. It was expected that Mr. Gompers, representing the labor proponents of this proposal, would be before the Convention on next Wednesday. The information was conveyed to the President that Mr. Gompers would not in his presentation exceed one hour. Mr. Gompers cannot be here and the proponents propose to substitute one for Mr. Gompers who will not take to exceed one hour for presentation. The opponents of the proposals ask that they be given the evening of next Wednesday to present their side of the case in opposition to Proposal 332. Tentatively, the program agreed upon between Mr. Sneed, chairman of the Labor Committee, and the President is that the proponents will have from four to six in the afternoon and the opponents of the measure the evening, commencing about eight o'clock.

Whereupon the Convention further proceeded upon the order of first and second reading of proposals, motions and resolutions, unfinished business, general orders of the day.

Mr. GREEN (Champaign). I move that the Convention do now adjourn until next Wednesday morning at ten o'clock.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Wednesday, April 14, A. D. 1920, ten o'clock a. m.

WEDNESDAY, APRIL 14, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend I. E. Lee, pastor of the First Baptist Church of Herrin, Illinois.

THE PRESIDENT. The Journal of Thursday, April 8, 1920, was placed on the desks of the delegates at the meeting of the Convention Friday, April 9th. The Journal of Thursday, April 8, 1920, is now subject to correction. There being no correction proposed, the Journal of Thursday, April 8, 1920, stands approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submits a report.

COMMITTEE REPORT.

The Committee on Suffrage having made its report to the Convention, with a substitute proposal, being Proposal No. 351, and said report under the rules having been ordered to lie on the table; your Committee on Rules and Procedure recommends that the said report of the Committee on Suffrage with Proposal No. 351, submitted by said committee, be taken from the table and placed on the general orders; and that the consideration of said report and Proposal No. 351 be made a special order of business for consideration in Committee of the Whole under general orders of the day on Thursday, April 15, 1920.

(Report adopted.)

Whereupon the Convention further proceeded upon the order of report of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinisher business, general orders of the day.

THE PRESIDENT. According to the announcement made by the Chair on last Friday, the program for today contemplated a further hearing on Proposal No. 232, commencing at four o'clock this afternoon, the hearing to be continued this evening at eight o'clock in the Committee of the Whole. I would suggest, therefore, that a motion would be in order to take a recess until four o'clock this afternoon.

Mr. GREEN (Champaign). I move the Convention do now recess until four o'clock this afternoon.

(Motion carried.)

Whereupon a recess was taken by the Convention until Wednesday, April 14, A. D. 1920, four o'clock p. m.

4:00 o'CLOCK P. M.

The Convention reconvened pursuant to recess.

The President in the Chair.

THE PRESIDENT. The Convention took a recess until four o'clock this afternoon for the purpose at that time of hearing from the labor representatives on Proposal No. 232. It was anticipated at that time that some representative of labor would be here at four o'clock. I have been informed since the adjournment this morning that the representative could not be

here and would not be here at that time. Now, I thought possibly it would be convenient for the opponents of Proposal No. 232 to be heard at this time, but after adjournment I received a telegram from Dudley Taylor, who represents the Employers' Association of Illinois, and who expected to speak, saying that he would not be in the city until 6:15 this evening, and Mr. Piez is not ready to present the matter at this time on the part of the opponents of this proposal, and therefore it will be necessary to take a further recess until later in the day.

Mr. HAMILL (Cook). I move you, Mr. President, that the Convention do now adjourn until eight o'clock this evening.

(Motion prevailed.)

Whereupon an adjournment was taken by the Convention to Wednesday, April 14, 1920, eight o'clock p. m.

8:00 o'CLOCK P. M.

The Convention reconvened pursuant to recess.

The President in the Chair.

THE PRESIDENT. The Convention recessed for the purpose of resolving itself into the Committee of the Whole for the purpose of the further hearing of Proposal No. 232. The Convention therefore will resolve itself into the Committee of the Whole for that purpose. The Chair designates Delegate Fyke to act as chairman of the Committee of the Whole. (Applause.)

(Chairman Fyke presiding.)

CHAIRMAN FYKE. The committee will be in order. Mr. Piez, president of the Link Belt Company of Chicago, will address the committee with reference to the proposal under consideration. Gentlemen of the committee, I present Mr. Piez.

Mr. PIEZ. Mr. Chairman and Gentlemen of the Committee: I have been requested, on behalf of the Illinois Manufacturers' Association, to present certain reasons why to our mind the Proposal No. 232 should not be incorporated in the Constitution.

I want to say in the first place I am a layman. I do not claim any legal knowledge and therefore I wish to treat it from the standpoint of economics and the needs of industry.

But even to a layman, it seems that the Constitution should confine itself to a declaration of principles and to a guarantee to each and every citizen of equal rights, protection and participation in the government. The singling out of any group or class for special treatment, for a separate definition of rights or grant of privileges, seems to me to be subversive of the entire idea of such a government as ours.

It is impossible to tell what the future will hold in industrial and social problems, nor to what extremes the parties to the controversy may resort. It may, in the solution of these problems, be necessary for the State to invoke the very remedies which the proposal submitted by labor seeks by constitutional provisions to inhibit, and it would certainly be unwise in this Convention to estop future legislatures from enacting legislation that but a few months ago actually prevailed in the United States Senate and received a large vote in the House of Representatives.

Mr. Kerr in his presentation, refers to the many wrongs which labor has suffered and asks for the adoption of Proposal No. 232 so that labor may be secure against their recurrence. It is a habit of these gentlemen to refer to ancient, and even legendary, wrongs as if they still existed, and on that account I present a statement of a few facts and conditions that may be helpful to a proper perspective. There is not in the existing Constitution any declaration like Section 1 that the "labor of a human being is an attribute of life and is not property," yet Illinois has in the past twelve years enacted legislation that has recognized the right of the worker to safe, wholesome surroundings, to compensation in case of industrial accidents, and has prevented the exploitation of children in industry.

In the recognition of human rights in industry, Illinois stands a leader among the large industrial States; and permit me to add that in developing the State Factory Act, the Workmen's Compensation Act, the Mining Act and the Occupational Diseases Act, representatives of labor and representatives of employers collaborated, not only in drafting these measures, but in winning public support for them. In all these matters, remedies were developed when public opinion recognized the need for them.

So complete has been the work of the State that, beyond a few insignificant amendments to existing Acts, there exist substantially no demands for any basic remedial industrial legislation at this time.

Sections 2 and 3 of Proposal No. 232 ask for incorporation in the basic law of the State, of principles which will absolutely turn over to organized labor, without exaction of any responsibility, the control of the industries of the State.

Section 2 declares that the right of workmen "to organize into trade and labor unions and to deal or speak through representatives chosen by themselves shall not be abridged." This is a request for an exceeding broad and in fact an unlimited exercise of power couched in most innocent and ingenuous language.

There seems to be no reason for incorporation of the first part of this section, for the right of workmen to associate in a lawful manner for lawful purposes is generally acknowledged and has certainly not, within my memory, been questioned in Illinois. The joker in this particular section exists in the last phrase, "and the right to deal or speak through representatives chosen by themselves shall not be abridged;" you might as well provide so far as the practical result is concerned, that hereafter no individual worker and his employer shall have the right to enter into contractual relations with each other as to incorporate Section 2 in the Constitution.

Mr. Kerr has asked for this provision because of the assumed difference in bargaining power between the employer and employee. At first sight there is apparent foundation for this claim, yet the difference in bargaining power between employer and employee is exactly the same as that between buyer and seller in any commercial transaction. Just now there are one hundred jobs for every eighty men and the constant and immoderate increases in wages indicate that the workman has an overwhelming advantage in bargaining power. This advantage changes from employer to employee just as it shifts from buyer to seller whenever demand largely exceeds the supply. This is and has been for many months a seller's market and it has marked up both prices and wages. A long continued buyer's market will bring about an adjustment on a descending scale. It is extremely doubtful, however, because of the tremendous destruction of man-power through the war, whether there will not continue to exist for a long time a labor market in which the workman has a distinct advantage in bargaining power.

I should like to ask Mr. Kerr whether, since the passage of the Adamson Act, there has been anything like equality of bargaining power between the railroads and their men. Restricted by Federal and State control of rates and by the demand for continued service, the railroads are prevented from aggressive resistance to wage advances on one hand and from recouping by an advance of rates on the other. There does not seem to be in the present situation anything to substantiate Mr. Kerr's claim for what is, in its inevitable result, compulsory collective bargaining.

I believe both Mr. Kerr and his associates are fully conscious of the enormous power which such collective bargaining, provided for in this section, will place in the hands of organized labor. The provision carries with it no restrictions of any kind, prescribes no fair method for determining the choice of the representative, and calls for no collective responsibility to observe the agreements arrived at by collective bargaining.

It does, however, open up the opportunity to every agitator, to every professional trouble-maker, by false promises, by lies and treachery, to organize a raid against any industry whose profits hold out the hope of rich

booty. And it denies to every workman or employer who wishes to retain his freedom of action, the right to work or conduct his business.

It was on the question of collective bargaining, through chosen representatives, that the first Industrial Conference, called by the President last fall, split. And it was owing to the fact that the war policy of the administration prescribed collective bargaining through chosen representatives as one of the basic principles in the employment relationship, that membership in the unions grew apace and the open shop on government or war work ceased to exist.

I am not going to weary you with a recital of the many breaches of agreements solemnly entered into by chosen representatives after collective bargaining during the past eighteen months. It will be admitted that unless labor assumes some enforcible responsibility for the carrying out of its agreements, the time may come when the public will question the wisdom of permitting labor to use concerted action. But this is a legislative question and not a constitutional one.

It is well to remember, too, that no solution has as yet been found for the conditions as they exist today, and that at present public sentiment is slowly crystallizing in favor of greater control, greater restrictions, the imposition of greater accountability; not the grant of greater power.

It is easily conceivable, in the case of railroads and the basic industries like coal-mining, that men engaged therein shall, as a part of their contract of hiring, be compelled to waive the right to strike and accept the decisions of a properly constituted, impartial tribunal. To claim that such legislation condemns the men to involuntary servitude is arrant nonsense, for in those cases, the question is no longer an issue between employer and employee, but between the public and one of its members, and involves no more than the submission of the workers to the fairness and decision of the majority, a discipline that all citizens in any democracy must accept. The right of the worker to strike can certainly not be declared superior to the right of the public to live.

It may also be necessary at no distant date to declare it a misdemeanor for policemen and firemen to strike, or even to affiliate with a union or organization not composed exclusively of policemen or firemen in the same employment.

Men intrusted by the State with the protection of life and property cannot be permitted to strike and leave the community open to attack from the lawless and criminal. Here, too, the community has a right to demand the submission of the interest of the individual to the public interest. And it goes without saying that affiliation of the guardians of the peace and public safety should not be permitted with organizations whose lawless acts may require suppression or punishment at their hands.

The American people will not tolerate political strikes nor government by strikes and coercion, and sooner or later will ask for summary legislation against acts which aim to defeat the fundamental fact in American life that the rights of the individuals end at the polls.

Neither will the people in the long run permit the waste and annoyance of strikes that have been called for corrupt or coercive purposes.

The strike has been of enormous social service and the right to engage in legitimate strikes, except in the railroad service and in the basic industries on which the actual life of the nation depends, must remain unimpaired. But strikes have become great instruments of oppression and the general strike, the sympathetic strike, in fact any strike where there is no grievance, where there is no trade dispute involving direct benefits to those engaged therein, and strikes in violation of an arbitration award or agreement, should be declared unlawful.

And it should be made unlawful for any person or association wilfully to induce, aid or support any such strike; and anyone injured or threatened with injury by such strikes should be entitled to all of the civil remedies in law and equity.

I have merely sketched some possible pieces of legislation that may appear justified by conditions later on, so as to indicate to you the extent to which restrictive measures in the Constitution may prevent remedial future legislation.

As to the arguments advanced by Mr. Kerr on the third section, they would have weight if the premises were true, but in my thirty years' experience as an employer, and with a fairly broad and intimate contact with labor and industrial problems, I have failed thus far to meet any cases of peaceful picketing or peaceful persuasion. Strikes are not always called upon a vote, after a plain statement of the issues involved. In fact, some of the most disastrous strikes have been called by the vote of but a small fraction of the membership.

I know in this connection that when the strike was called at Seattle, which involved the ship builders in the Seattle district, the vote was actually decided upon by a meeting of not over nine hundred members out of a membership of fifteen thousand, and as the result of the meeting and the decision reached at that time a contract solemnly entered into with the Government of the United States, to which Mr. Roosevelt and I, on behalf of the Government were signers, and which Mr. Gompers and the presidents of the International Unions had assented to and had approved and had actually signed, that agreement was absolutely disregarded and breached by a majority vote of nine hundred men who controlled the action of fifteen thousand.

Not all strikes are just. In fact, some are in the highest degree unfair and unjust, yet in every case, judging from Mr. Kerr's prayer, the great power of the unions to do damage to the employer shall remain unimpaired, without possible chance of recovery for loss or damage inflicted.

If the men desire to quit for any reason, that is their present privilege, but they should not have the right to persuade others to refrain from work with a bludgeon, or through the more cruel and effective method of intimidating their wives and children.

A strike is not exactly an afternoon tea in which conversation is plentiful, but harmless. It is not, as a rule, as these gentlemen well know, conducted through persuasion and peaceful picketing; but it always involves the absolute denial of the right of the employer to conduct his business and a denial of the right of other men to remain at work or to seek work. A just cause will win, through public support, in the face of an unfair employer, and an unjust cause should not be permitted to prevail through intimidation and violence.

Strikes will exist so long as industry exists; for difference of opinion as to conditions, differences as to the proper division of the profits, will remain, no matter what the character of ownership or industrial scheme of management.

It is in the very nature of industry that organized labor and the employers shall compete for the lion's share of the profits, but the trade unionist has always recognized the right of the investor and the management to a sufficient portion of the profits to continue the industry and keep the opportunity for employment open.

The Communist, however, denies the right of returns to both the investor and the management and is prepared to go the limit to bring about revolutionary changes in our industrial system. And the Communist's influence is by no means a small one in some of the existing labor organizations. It is on that account that I feel that future legislation will look toward the imposition of greater responsibility upon labor organizations, and will not be inclined to grant wider authority or greater power. Your committee may well have this in mind in framing the provisions of the new Constitution.

I thank you, gentlemen, for your attention and courtesy. (Applause.)

CHAIRMAN FYKE. The committee will be next addressed by Mr. Dudley Taylor.

Mr. TAYLOR. Mr. Chairman and Members of the Committee: For many years I have been counsel for the Associated Employers of Illinois, the Employers' Association of Chicago, and various other associations of employers. I have had very much to do with injunction proceedings in labor controversies on the side of the employer. We have had measures before our legislature in its past several sessions in the nature of an Injunction bill, similar to the Proposal No. 232.

The first section of No. 232 provides, "that labor of a human being is an attribute of life and is not property." Many people have asked me what was meant by the statement "that the labor of a human being is not property," and they have sought some light upon the matter. In previous sessions of the legislature the bills provided, "that the labor of a human being is not a commodity or article of commerce"; I think there is a relation between that declaration in the former bills pending before the legislature and considered by them and the declaration contained in Section 1 of this proposal, and there was equal uncertainty among the members of the committees of the legislatures considering those bills as to what was meant, what labor intended by declaring "that the labor of a human being is not a commodity or article of commerce." I explain it in this way: We have three principal statutes, Federal statutes, on the subject of combinations. We have one in Illinois. The three Federal statutes are commonly known as the Sherman Act, the Clayton Act and the Federal Trade Commission Act. The Sherman Act in general prohibits a combination, agreement and movement in restraint of trade or to monopolize. The Clayton Act in general prohibits price discrimination if the effect is to lessen competition or tending to create a monopoly, and also prohibits price or discount fixing with an understanding with the purchaser that he shall not handle goods of competitors where the effect is to substantially lessen competition tending to create a monopoly. The Federal Trade Commission Act declares that unfair competition is unlawful.

The Sherman Act, as you know, was passed in the year 1890. The Clayton Act and the Federal Trade Commission Acts were passed in the fall of 1914. In the Clayton Act and the Federal Trade Commission Act commerce is defined and frequently referred to, and commodities are spoken of, that is in relation to monopolies, restraint of trade and unfair competition.

Now, I assume that in considering the Clayton Act labor was heard, and that it did not wish to be left in a position where it could be held to be a combination in restraint of trade or engaged in unfair competition or perhaps as affecting a monopoly. In other words, it desired to be taken out from under the operation of those acts, so that in Section 6 of the Clayton Act it was stated, "that the labor of a human being is not a commodity or article of commerce." That evidently refers to commodities and articles of commerce within the meaning of the three acts, because the Clayton Act expressly in its preamble refers to the three acts.

Now, in the discussion which we had before the Senate Judiciary Committee in 1915, Mr. Kerr, Attorney for the Illinois Federation of Labor, stated that he drew the bill which was before the legislature and senate containing that declaration, and that it had been taken from the Clayton Act.

When asked what he understood it to mean, he stated in substance that it was tantamount to saying that labor is not property, that the declaration that labor is not a commodity or article of commerce means that it is not property. He was then asked if it would take labor controversies out of injunctive control, and he stated in his opinion it would.

Now, that seems to me the reasonable relation to Section 1 of this proposal, also prepared by Mr. Kerr, in which he states that "the labor of a human being is an attribute of life and is not property." I think the gentleman had in mind the Clayton Act, but as I pointed out to you, the Clayton Act related to the commerce between the states, interstate commerce. It has no application, therefore, to the State of Illinois. Our courts have on the contrary frequently held that labor is property and is a property right. It was so held in Matthews vs. People, 202 Ill., 389. It was so held in

O'Brien vs. People, 216 Ill., 354, which was a strike case, and in the subsequent strike cases before our Supreme Court.

Massachusetts passed an anti-injunction act, and sometime later the question of its constitutionality was raised by a labor union in the case of Bogney vs. Peralti, which is reported in the 112 Northeastern, 1853, and in that case the court considered the proposition and held that labor was property and is a property right and is entitled to be protected as such, and it quoted from the many decisions of our higher courts, including the United States Supreme Court. In fact, the United States Supreme Court has held the same way in the well known case of Adair vs. United States, and in Coppage vs. Kansas. Now, it does seem to me that labor should be the last one to declare that labor is not property and is not a property right. I think their declaration is due to an erroneous conception. If the manufacturer has a property right in this pedestal, it has been made in his shop, it is his property and he has a right in it and is entitled to be protected in it. The laborer, who also engages in manufacture, is entitled to be protected in his right to labor. I assume that it does not mean, as seems to be inferred by speakers for the labor side, that the employer owns the employee and owns his labor. It is for the protection of labor itself, and as we have seen in the Massachusetts case it has been invoked by labor.

I should say, therefore, in concluding the remarks on Section 1 that labor would do well to consider, reconsider its declaration that labor is not property and is not a property right. Should this Convention make such a declaration I would regard it as a legislative fiat, contrary to fact, and as such it could not stand against the fact any more than it stood in Massachusetts.

Section 2 of this proposal provides "the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." As I see it, it would in addition to the things that Mr. Piez has pointed out, prevent interference with monopolistic enterprises, including unions. We have many such. There are industries monopolized on the part of labor, where labor controls an industry, and has a labor monopoly in it. So long as there are not serious abuses of that, perhaps, the industry and the public will not be much concerned, but if there are serious abuses then they may well be concerned.

There are community monopolies of labor in which labor monopolizes—I am speaking of union labor all the time—union labor monopolizes the labor in an entire community and closes the door to all those who are not members of the union.

There are also national monopolies of labor where union labor controls substantially the industry nationally, or attempts to do so, so that we may pause before we say and agree that the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by them is declared and shall not be abridged, because the consequences of such a declaration, if it could be effected, would be to authorize, or might be construed that way.

Section 3 provides in the first place, "no court, tribunal, judge nor any officer or official shall by any process, order, injunction, restraining order, decree or proclamation abridge the right of any workman to quit any employment either singly or in concert—"Of course his right to quit singly is not denied; he has always had that right, unless it would be in violation of some contract, or possibly under peculiar conditions where it would be a menace to the life and safety of others, as for instance, an engineer driving his locomotive I presume would not be held to have the right to then and there quit his employment. He has certainly assumed an obligation to bring that locomotive to a safe stand, and he is under obligation to the passengers and public who are dependent upon the service that the locomotive affords.

What one may lawfully do, it has been held many may not in all cases do, for in the concert of action there is the combination. It is not true that what one may do, all may lawfully combine to do. It is then provided in

this Section 3 that no injunction order, and so forth, shall restrain the right of peaceful persuasion.

Now, let's see: Persuasion and inducement go right to the heart and gist of a labor controversy. Here is a theory under which equity has jurisdiction. There is injury, there is damage, or there is an immediate threatened injury resulting in damage. The damage is irreparable generally because the parties who threaten to commit or do commit it are not financially responsible and therefore the jurisdiction of equity is invoked. Let's follow that. Here is a strike; the individual workman quits for whatever reason he pleases; they all quit, or most of them quit; there is a concert of action. If it is not an illegal strike, not an unlawful strike, all well and good; having quit their employment they then gather about the struck place and begin to persuade and seek to induce persons not to work there, either to quit their employment or not to take employment there. Now, the employer is dependent on operating his plant, he must operate it; if his plant remains idle, he must go out of business. Certainly, with his overhead expense, his contracts, his orders to be filled and all that, he is under great loss and injury. He is therefore dependent upon service; he is entitled to free access to the market to obtain workmen; he is entitled to the good will of his workmen; he is entitled in other words, to protection from unlawful and improper interference with those workmen. If the laboring men can induce those workmen to quit their employment, or induce other workmen not to take employment, they have effected their purpose. They have prevented or are preventing the employer from operating, and that is their purpose; that, or course, involves loss and injury, if they can effect that purpose. If they can effect that purpose by peaceful persuasion and by inducement they do not need violence or intimidation, yet there is a loss there. Now, our courts and all courts in dealing with the subject recognize the loss, they recognize the injury and the loss which ensues and they recognize the purpose to effect that, and they look for legal justification, if any; if there is a legal justification then the court will not interfere; if, for instance, it is a case of competition and someone in conducting his business, as he has the right to do, yet through competition, causes a loss or injury to his competitor, then his competitor has no just ground for complaint, because it has been done in pursuance of a right which one has and not with the intention to injure; there is no malice in it, but in this case of the strike, there is no competition, at least I know of only one court which has held there is competition. You will concede that workmen are not employers, they have no factory or plant, they are not seeking employees, they are not engaged in any enterprise in which they need employees, and even if they were doing so or they needed employees, it would be a form of unfair competition to station themselves right around another person's business and make their drives upon that very plant to take away the employees and prevent that plant from operating. Therefore, it goes to the question of legal justification, and in most every instance it is held that there is no legal justification for it.

That was held by the United States Supreme Court in Heidman Coal Company vs. Mitchell, of the Miners' Union, decided within the last two years; that was held in the United States Supreme Court in Doremus vs. Hennessy, which did not involve a strike, but involved a dispute between a laundrymen's association and a woman whom they wished to force into that association, to force her to abide by their terms, but the same principle was applied later in the striker's cases. So you see, gentlemen, that peaceful persuasions and inducements may be held and generally are, if not always are, without legal justification. They are intended to and affect harm and injury and loss, and give rise to the interposition of the court of equity. That is in case of a lawful strike, but supposing it is an unlawful strike as in the case of a sympathetic strike. Let me explain just briefly.

Our courts have been distinguishing all over the country, they have been declaring the rights of labor according to the circumstances of the case before them, and it has come to be generally agreed that a sympathetic strike is nothing more than a boycott. Why? Because the sympathetic strike is by some body of men who are not immediately concerned; they

have no demands; they are not seeking any benefits, very often they are under their own contracts; they are not involved in a particular dispute, and their aid is invoked simply as a club to coerce, to penalize and punish an employer until such time as the employer shall grant the demand. Let me instance that: I do not intend to prolong this address unduly, but here is an instance which I think will make that clear: Recently, just last fall, we had a strike on the part of shop fabricators of steel. These fabricators dressed the steel in the factory, they bored holes in it, measured it, and cut the steel for erection purposes in buildings. It was shop work. They were not organized. They formed their union; they demanded that the employers, some eight firms in Chicago, enter into a closed shop agreement, that is a union agreement, an agreement to employ none but union labor in that work. The employers refused. They had the right to refuse. They then began picketing and picketed some time; when that did not force the employers to terms, they then procured the machinery movers who hauled the steel from the shop to the job to put a ban on the hauling and refuse to do any hauling. Now, mind you, the machinery movers had no grievances whatsoever, not a particle; they had no demands, they were seeking no benefits; they took this action simply to aid a sister union and to punish and penalize the employers and whip them into line. When that was not enough to bring the employers into line, they then procured the erectors, those who were out on the job, erecting this steel, who had nothing to do with the shop work at all, a separate union; they procured them to put a ban upon the erection of this material, and as a result the erectors discriminated against the steel coming from these eight shops. They would erect non-union material that came from other cities but not from those eight shops, and that was done simply to again further punish these employers and to hold a club over them. Now, that is a sympathetic strike, and you will see there is no direct benefit involved, no grievances on the part of those who strike in sympathy. Now, supposing, and here is the point of it, supposing that the sympathetic strike is called. Why? We say in spite of the fact that our courts all over the country are holding it unlawful, we say that people may go out and persuade and induce others to engage in that unlawful undertaking? That is one instance in point.

Now, as to picketing, we hear much of peaceful picketing. To my mind it is a misnomer. Picketing is enjoined you might say on three grounds: In the first place as a wrongful interference, just as persuasion may be a wrongful interference, and to intimidate those who are not in their employ for the express purpose of preventing the firm from operating, getting people to quit its employment, or not to enter into its employment, for an unlawful purpose, therefore an improper interference.

Second, because as we lawyers say it is unlawful per se, in and of itself that is on the ground it is inherently by its very nature intimidating, menacing, harassing and annoying.

You talk with any workman employed in a strike bound plant and he will probably say it is a menace to him and it does intimidate him; that he disapproves of even peaceful pickets, that he does not regard them as his friend and considers them hostile to him; that they are antagonistic to the firm and to him because he works for the firm, and he takes precautions for his safety from injury or interference at the hands of the pickets. He goes to and from the shop in groups, goes in automobiles furnished by the employers, or relies upon police protection or relies upon the protection of guards from interference with the pickets, and peaceful picketing at that. The peaceful picket is also used in a boycott way, and we have pickets picketing in front of a place where it depends upon patronage. Now, if you are going to concede that the employer is always in the wrong that he ought to be punished and that is a good way to punish him, and he ought to be driven out of business, it would result in a rough and ready justice; but assuming he has a right to conduct his business as he sees fit, then what right is there to punish him by making a drive on his property, and that is done by so-called peaceful picketing. It was done in the case of the restaurant in Chicago in 1914, and several times since.

Then, there is the matter of payment of strike benefits. Supposing that the strike benefits are for the purpose of carrying on an illegal strike; manifestly they could not be so employed and ought to be subject to some court control. This Section 3 provides that none of these acts shall be held unlawful in spite of the fact that the courts all over the country are holding them to be unlawful.

Now, you might say that a person who smashes a window in furtherance of a strike dispute, has done something unlawful. The fellow who explodes dynamite does something unlawful. You will all concede that, but after all he has done that in an attempt to terrorize or effect a property loss for the purposes of coercion. Now, suppose that he effects the same thing, produces the same result, by simply picketing or persuasion; in fact, if he smashes a window, perhaps he does two hundred dollars damage, but if on the other hand, he can keep the employees out, he can smash a hundred thousand dollar business.

Then we have the jurisdictional strike; in spite of all that the employer can do, in spite of the fact that he contracts with the union which seems to be in control, he faces a jurisdictional dispute, he is entitled to some relief there, and they are seeking to interfere with the people who have contracted with him. You will see, gentlemen, that peaceful persuasion and inducement and picketing in some of these cases cannot be permitted. And finally, of course, there is the general strike covering a whole community, or as is sometimes threatened, the whole country.

I have instanced only a few of the cases in the hope of making it clear to you that it will not do to say that there shall not be any court control of such things as picketing, persuasion, inducements and payment of strike benefits, and all sorts of action; the fact is, the law as is sometimes stated, is in a state of flux. Some advocate a statute here and there, and a statute as you know reflects the idea of some people who have considered it perhaps as well as they could, but have not actual knowledge or intimate knowledge of the facts. I submit we come nearer the truth when a case is freely submitted to a court of general jurisdiction and the facts are before the court and the evidence is heard and the law is declared as to those facts. That court does it, another court does it, it is done all over the country, and pretty soon we have a body of opinions which might well be a guide to legislation, and I think it is a most competent opinion, and it is an evolutionary process; it is a development; we have not reached the end of it; we still have a long way to go. There is the question of the rights of the public, the right of the Attorney General to go into court, the right of the State's attorney, where it is necessary to protect the rights of the public, and I submit to you gentlemen, that we should not by any provision of the basic laws of the State, tie the hands of courts, and particularly the courts of equity in dealing with these various problems.

I would be glad to answer any questions that I can that will in any way assist you on the lines I have discussed.

Mr. TRAUTMANN (St. Clair). I understood you to say, Mr. Taylor, that you thought an individual, a man had a right to quit his job. I wanted to ask you if you would carry that further in your discussion, as to whether the individual, having the right to quit alone, would also have the right to try to persuade, entice and induce someone else to quit, doing it alone, and not in concert?

Mr. TAYLOR. Not in concert. No, I think he has not on the theory that if he does do so, it is for the purpose of a wrongful interference with the right of another.

Mr. TRAUTMANN (St. Clair). I just wanted to get your views on that.

Mr. WALL (Pulaski). I would like to ask you a few questions: I quite agree with you on what you have said on sections 2 and 3, but I would like to get an expression of opinion on Section 1, which apparently is not as clear as it might be with reference to labor not being property. You distinguished between the word "commodity" as held by the Clayton Act on property. What is the purpose in your judgment in putting this Scetion 1 in the proposal, to avoid the effect or prevent the issuance of injunctions?

Mr. TAYLOR. Yes, I so understand the proposition of the measure. They hope to accomplish that. That was the statement of Mr. Kerr. So far as a commodity and an article of commerce was concerned, I presume it has the same purpose here.

Mr. WALL (Pulaski). Do you distinguish between the result or product of labor and labor itself, when you say that labor is property?

Mr. TAYLOR. I feel that labor itself, the workman has a right to protection from unlawful interference with his right to work, just as much as the employer and the manufacturer have the right to protection from unlawful interference with their property.

Mr. WALL (Pulaski). Is it not true that labor itself is not property, but that the result or the product of labor is the property?

Mr. TAYLOR. No, the courts are holding it involves a property right, and is the laborer's property, not the employer's property, but the laborer's.

Mr. WALL (Pulaski). And not the product of it, but the labor itself is property?

Mr. TAYLOR. Yes, sir.

Mr. PINCUS (Cook). I understood you to say, Mr. Taylor, that a sympathetic strike is illegal.

Mr. TAYLOR. Yes, sir.

Mr. PINCUS (Cook). And that a restraining order in that case, if any, would be proper?

Mr. TAYLOR. Yes, sir.

Mr. PINCUS (Cook). What would you say if a strike, a legal strike is called, or there is proper ground for calling a strike in a certain concern, and an employer in the same line of work, a manufacturer, assists this concern which is on a strike, would you say that is proper, financially or otherwise?

Mr. TAYLOR. I should think that the employer might seek financial assistance.

Mr. PINCUS (Cook). And you would not think that that is improper?

Mr. TAYLOR. I do not see how anybody would be interfered with.

Mr. PINCUS (Cook). And there is no way to get a restraining order to restrain this employer from helping the concern in which the workers are on strike?

Mr. TAYLOR. No, I do not see why they should, or why he is interfering with the employer he assists, or a wrongful interfering with those who have struck.

Mr. PINCUS (Cook). But for the employees, the workers in concerns where the workmen are not on strike, and go out on a sympathetic strike, they do that only for the purpose of helping their co-workers that are out on strike.

Mr. TAYLOR. Yes, that is true.

Mr. PINCUS (Cook). Why should it not be just as right for the workers to help their co-workers as it is for the employer of these workers to help out the employer whose employees are out on strike?

Mr. TAYLOR. I'll tell you why: It is not a struggle of class before the law, or of a pitched battle between classes; it is a question of what is lawful, what is an improper interference. In the case of the employer who assists financially, he is not interfering with anybody; he is committing no unlawful interference; he is not seeking to coerce anybody; he is not trying to injure anybody; it is a helpful process, anyway. On the labor side it is a scheme to coerce, to compel by interference, and that is what is unlawful. It gets down to the question of the legal justification, if there is any, and that is wanting.

Mr. PINCUS (Cook). I understood you to say that labor is a property right. That is right, isn't it?

Mr. TAYLOR. The laborer has a property right in his labor.

Mr. PINCUS (Cook). And capital has a property right?

Mr. TAYLOR. Yes, sir.

Mr. PINCUS (Cook). Then why can't the laborer use his property right as the employer uses his property right?

Mr. TAYLOR. May I approach it in another way? Suppose an organization of capital engages in an unlawful undertaking, and brings to its aid another organization of capital in that unlawful undertaking; then that organization of capital is liable, of course, and should be restrained. I would like to be understood as holding that combinations of capital must be subject to restraint just as much as combinations of labor, and they may not engage in anything unlawful or against the public good any more than labor should. They have no privileges as a class. I think our organizations as a whole have not had a proper regard for the rights of others and for the public, and I am one of those who favor the holding of organizations to a strict account for their organization activity, whether it be employers' capital or labor. To instance that: very recently in Memphis, Tennessee, the district attorney, the Federal district attorney, filed a bill against the Hardwood Lumber Men's Association and against the activities of that association, claiming that they were fixing prices, and that they were holding up prices, taking it out of the public; that it was an unlawful conspiracy. The members of the association replied, "We have no agreement, we have no understanding to do these things that you charge; all that we do is to pass out information and each member of the association acts upon that information individually as he sees fit." The Government came back with this proposition, "Aye, but the effect of your passing out your information and treating it in that way is to bring about these evils, and it has the effect we are after." And to that I say, "Amen," and I feel we are going to get after the effect of these things more and more. We will have to do so in a public interest, if we do not do so in the interest of industry. I am not a defender of unlawful organizations, whether they are capital or labor.

Mr. PINCUS (Cook). Your idea is to restrain labor, but you have no way of restraining the employers?

Mr. TAYLOR. Well, one is to prevent unlawful interference and the other is not.

Mr. PINCUS (Cook). Would you say it is unlawful to organize?

Mr. TAYLOR. No, indeed.

Mr. PINCUS (Cook). We have two organizations, one is the employers' organization, the other the workers' organization. One has labor as its property right, and the other has capital; the only way they can fight the employer is by labor, the strike method; you say the sympathetic strike is unlawful and therefore a restraining order is proper, yet on the other side the only thing they use is capital with which to fight labor, we will assume. Now, here is a concern, a manufacturer of clothing, we will say, where the employees are out on a strike; would you say the employers in the same line of business have the right to use their business and their money to help the concerns where the employees are on strike in order to defeat the strike? They have no interest in this strike.

Mr. TAYLOR. You feel that the labor side is at a disadvantage?

Mr. PINCUS (Cook). Yes.

Mr. TAYLOR. And that the employing side has the advantage?

Mr. PINCUS (Cook). Yes.

Mr. TAYLOR. Would you like to put them on equal terms?

Mr. PINCUS (Cook). Yes.

Mr. TAYLOR. I don't see, even though there may be a disadvantage as you suggest and probably is, that it can be justified by engaging in something that is unlawful interference, interference with rights which are everywhere recognized, and must of necessity be recognized. Your labor union, which has the power to strike and tie up industry, has great power; there is a great potential power there, power to tie up simply by quitting, and it has been my experience with employers as a class they generally go as far as they can to satisfy the reasonable demands of labor before they will subject themselves to the disrupting processes of the mere strike. I might add further that the employer who feels he can tie to a labor union

and have contracts respected and knows that he can rely upon the things which the union agrees to do in behalf of its members, generally is not complaining and is not fighting unionism; it is the employer who has had the other kind of experience who fights it.

Mr. PINCUS (Cook). We will assume this, that the fault is with the employer, that the right is with the workers, and the workers go out on a strike, and the other employers in the same line of business are helping this employer who is in the wrong, financially and otherwise. How are we to restrain the employers from helping this employer who is in the wrong?

Mr. TAYLOR. You cannot restrain him, you cannot interfere with his doing a helpful thing which is not wrongful interference with anybody else. Labor, however, has certain advantages. One of them was pointed out by Mr. Piez just now when he said that there were one hundred jobs to every eighty men; in other words, the scarcity of labor, and that is the real thing, and they may get their benefit from that.

Mr. CORLETT (Will). Mr. Chairman, I would like to ask the gentleman a question: Do you claim it is proper for the employer to enjoin the payment of strike benefits?

Mr. TAYLOR. I am afraid I do not understand you. I do not know of his paying strike benefits.

Mr. CORLETT (Will). To enjoin the payment of it by the unions.

Mr. TAYLOR. Oh, I understand you; in certain cases, yes.

Mr. CORLETT (Will). Well, do you claim that the employer has a property right in strike benefits? Upon what theory do you justify the right to enjoin them?

Mr. TAYLOR. If the strike is to be maintained and financed, the strike is an illegal strike and the strike benefits are the main support of that illegal strike, then they may be enjoined, as for instance, if I may instance two cases very recently: The Federal judge at Indianapolis in the coal miners strike forbade the financial support of that strike and ordered that it be called off. In another case, where the printing pressman's union had entered into an agreement with the employers covering a certain period of a year for a nine hour day—this was many years ago—at the end of that time the eight hour day was to go into effect; officials of the union procured the calling of the strike, and in the first place it was a strike in violation of contract, the court in that case was asked that they be enjoined from using funds for that purpose. Suppose it should be found that the funds were being used for purposes of violence or for boycott all over the country?

Mr. CORLETT (Will). The injunction granted in the Indianapolis case was upon the complaint of the Government, was it not?

Mr. TAYLOR. Yes.

Mr. CORLETT (Will). And not upon the complaint of the employer? And for what purpose would you have the employer enjoin the payment of strike benefit?

Mr. TAYLOR. It is not often done, and it is done only in those cases where they are being used in furtherance of an unlawful purpose, in other words, being put to improper purposes.

Mr. CORLETT (Will). You do not claim that the employer has any property right in these strike benefits?

Mr. TAYLOR. No, it is only a means of interfering.

Mr. CORLETT (Will). Would you carry it further and authorize the employer to enjoin the more fortunate employee from drawing money out of the bank if he happened to have a bank account?

Mr. TAYLOR. Certainly not.

Mr. CORLETT (Will). What would be the difference in principle?

Mr. TAYLOR. That is his individual property and I presume it would be used for proper purposes. If the individual employee draws money and uses his money for an improper and unlawful purpose he might come under the general injunction. He could not for instance draw his money and with that money go and pay a slugger and then escape, saying it was his

money and he could use it as he saw fit. He would be putting it to unlawful means in violation of the injunction.

Mr. CORLETT (Will). I want to find out whether you would carry it to the extent of authorizing the employer to enjoin drawing the money out of the bank, if he happened to be fortunate enough to have a bank deposit, in order to protect the strike.

Mr. TAYLOR. I never heard of such a thing being attempted, and if it should be attempted I am sure it would not succeed.

Mr. CORLETT (Will). I understand that a strike benefit is a common fund collected by the employees, contributing from time to time to that fund; is that your understanding?

Mr. TAYLOR. Substantially so.

Mr. CORLETT (Will). And that money is paid out during a strike for the purpose of supporting those who are in need of financial assistance?

Mr. TAYLOR. Yes.

Mr. CORLETT (Will). And you say that it is proper that the employer should have a right to enjoin the distribution of that fund in case of an illegal strike?

Mr. TAYLOR. Yes, assuming it is an illegal strike.

Mr. MACK (Hancock). You are not in favor of this Convention taking any action on Proposal 232?

Mr. TAYLOR. No, sir.

Mr. MACK (Hancock). Is there any suggestion you can make to the Convention to assist it in these matters?

Mr. TAYLOR. No, all I can say is, I believe the general courts are able to deal with these subjects and will deal with them as fast as they receive encouragement from the general public to do so. I believe that the courts may deal with them far more effectively in the future than in the past.

Mr. MACK (Hancock). Under laws now existing?

Mr. TAYLOR. Yes, under the common law.

Mr. MACK (Hancock). Under the common law?

Mr. TAYLOR. Yes.

Mr. MACK (Hancock). And there is nothing else necessary so far as the Constitution is concerned?

Mr. TAYLOR. No, I do not know of anything.

Mr. MACK (Hancock). Would you favor industrial courts or an industrial court in this State?

Mr. TAYLOR. I am not prepared to advocate it at the present time; I think the Kansas court is an interesting experiment.

Mr. MACK (Hancock). You are not able to say that you would approve now of a court in Illinois similar to the Kansas court?

Mr. TAYLOR. No, I am not.

Mr. MACK (Hancock). It is at this time simply an experiment?

Mr. TAYLOR. I regard it in the experimental stage to some extent; perhaps; it has proven impractical in other countries along the lines of compulsory arbitration. I believe in meeting matters with general courts, for one thing.

Mr. MACK (Hancock). Your study of the matter has not indicated to you any remedy that might be found, except as you suggest such remedies as might exist at common law?

Mr. TAYLOR. That is substantially correct.

Mr. SNEED (Williamson). I would like to ask you a few questions, and I trust you will pardon me if I cover some points that have already been covered. I came in on a late train; I did not get here when you began to speak. I understood you to say a few moments ago that there were at this time one hundred jobs for every eighty workers in this country, is that correct?

Mr. TAYLOR. Mr. Piez made that statement, I quoted Mr. Piez.

Mr. SNEED (Williamson). As I understand you, Mr. Taylor, you stated that you were not against organizing what you term lawful labor unions.

Mr. TAYLOR. That is true.

Mr. SNEED (Williamson). And which are organized for the purpose of improving the conditions of the membership belonging to them in a legal way?

Mr. TAYLOR. That is true.

Mr. SNEED (Williamson). I would like to ask you, Mr. Taylor, what objections you would have to the third clause in 232? Will you please repeat that again?

Mr. TAYLOR. Well, to state it as briefly as I can, the concert of action is not always lawful or in furtherance of a lawful purpose.

Mr. SNEED (Williamson). I did not get that.

Mr. TAYLOR. Concert of action may not be lawful, for one thing; peaceful persuasion may be, and generally is, an unlawful interference designed to coerce and compel a party to do something which he has a legal right to refuse to do; picketing is done for the same purpose and also may be and generally is, and is frequently held to be in and of itself intimidating, menacing and annoying. The strike benefits may be in aid of an unlawful undertaking, as of a sympathetic strike, boycott, or something else of that character which the courts hold to be unlawful.

Mr. SNEED (Williamson). Speaking, as you have, Mr. Taylor, do you hold with the present arrangement of dealing with labor today, and do you have knowledge of certain organizations being formed for the purpose of what we call in the labor world a black list, blacklisting labor because of certain demands that they may make?

Mr. TAYLOR. If you are using the word blacklist advisedly, from the legal standpoint, I don't.

Mr. SNEED (Williamson). You have no knowledge of an organization maintained for the purpose of following up men who are supposed to be agitators, or men who are leaders of labor unions, local unions, and who insist upon certain conditions being changed, so that those men are kept out of work in the various States and various cities in the various industries in which they are employed?

Mr. TAYLOR. I never heard of any such organization or agency, I do not know of any such.

Mr. SNEED (Williamson). Would you be in sympathy with that kind of arrangement?

Mr. TAYLOR. No.

Mr. SNEED (Williamson). Have you any knowledge, Mr. Taylor, of the employer who may have in the time of strike, when workmen struck or walked out, employed gunmen and sluggers for the purpose of intimidating the workers?

Mr. TAYLOR. I certainly do not.

Mr. SNEED (Williamson). I do not believe you would deny in many instances, that is the rule in many cases.

Mr. TAYLOR. I do not deny what I have no knowledge of. It is my common experience that employers are not out to browbeat and to injure others, but are endeavoring to protect their own employees. They generally use deputy sheriffs and policemen for that purpose.

Mr. SNEED (Williamson). I have in mind a certain condition that prevailed in this State at one time where men who had quit their work and were peacefully picketing on the highways, a certain industry, were driven out of town, and the man who went in there to represent these men was deported from that town, and this with the knowledge of the company involved; that is one reason why labor feels the injustice of the injunction as it has come to be applied today.

Mr. TAYLOR. May I inquire where that place is?

Mr. SNEED (Williamson). In Hardin county.

Mr. TAYLOR. What place?

Mr. SNEED (Williamson). Elizabethtown and Mont Clair.

Mr. TAYLOR. I have no knowledge of that particular condition, but I will instance it with something that I have knowledge of. In LaSalle coun-

ty, there were three cement mine concerns, the Chicago Portland Cement Company, the American Portland Cement Company, and what was generally known as the German-American Portland Cement Company, now known as the LaSalle Portland Cement Company. They had a strike in 1916. The town of Oglesby is located four miles from LaSalle and has a principal street running through it flanked by houses and stores; it leads over the Illinois Central viaduct; and only in that way can the two plants of the American and Chicago Portland be approached; the strike lasted six months to a day; the workmen in those plants were not allowed by the miners in Oglesby to leave the plant; they were hemmed in; they had to eat, sleep and stay on the premises; food had to be brought in by railroad; those few unfortunates who did go beyond the confines of the cement company were filled with shot and some of them were killed on the streets of Oglesby by strikers; that condition lasted for six months; the company had guards; each of them had to keep from fifty to one hundred guards to protect their property lines night and day against dynamiting and interference; their guards did not go off the premises in all that time, simply guarded the premises. I have personally seen hundreds of strikers organize themselves into a parade and come up there on a Sunday afternoon before the gates of the premises and make indecent display of their persons and call the guards all sorts of vile and indecent names and do everything they could to provoke a riot. I was myself subjected to a riot when I went into a court room in the town of Oglesby and held there against my will for three-quarters of an hour by strikers who jammed the court room simply because a boy of eighteen, a chauffeur, had been arrested on a charge of speeding, a frightened boy, and they had to use their efforts for three-quarters of an hour to get those men to finally go down the stairs from the second floor of that court room, and to obtain a promise from them that we might leave the building unmolested. But, as we did leave in an automobile, we were showered with bricks and stone; the automobiles were fired upon, they bore bullet marks; the superintendents of the factory were subjected to assault, their heads cut open with bricks and we had all sorts of violence, and every bit on the part of strikers, and that occurred in a mining town.

Mr. SNEED (Williamson). Therefore, you offer that as evidence, as argument favorable to the injunction. Was the injunction applied in this case?

Mr. TAYLOR. Ultimately it was.

Mr. SNEED (Williamson). Finally?

Mr. TAYLOR. Finally.

Mr. SNEED (Williamson). Are you in any way connected with those companies there?

Mr. TAYLOR. No.

Mr. SNEED (Williamson). What leads you to believe in your mind that the employers of that concern were absolutely without blame? Have you all the facts in connection with the cement strike, or have you just the employers' side of it?

Mr. TAYLOR. I presume that you would consider that I have the employers' side of it. I was on the ground there.

Mr. SNEED (Williamson). You were there merely as a spectator?

Mr. TAYLOR. No, as attorney for the company, for the time being.

Mr. SNEED (Williamson). Do you have any knowledge relative to that matter? You consider that as evidence favorable for the use of the injunction. Do you have any knowledge of the different conferences or the different arrangements that were made in order to settle that dispute until outside men were brought in there as sluggers and gunmen?

Mr. TAYLOR. There were no gunmen brought in there to intimidate; all they did at any time was to stay within the property and to protect the property?

Mr. SNEED (Williamson). If my information is correct, while I do not have a personal knowledge of that matter, and I am not willing to go into it, my information is that the employers of those concerns, and my information is based upon the statement of a State official, who was a State official

at that time, that the employers are responsible in many ways for the outcome of that strike.

Mr. TAYLOR. May I inquire what position the State official had?

Mr. SNEED (Williamson). I do not care to give his name here. If you want to go into this privately, I do not mind telling you.

Mr. TAYLOR. I would just as leave go into it publicly here, and tell you what the sheriff, the district attorney and the coroner did.

Mr. SNEED (Williamson). I will not allow you to drag me into something I am not thoroughly acquainted with, I do not know the facts in that matter, and it would not be fair to do that.

Mr. TAYLOR. You brought me into the matter in Hardin county that I was not familiar with.

Mr. SNEED (Williamson). There is another question I would like to ask you. You spoke of Judge Anderson and of his actions in the coal mine strike. Do you know the facts leading to that controversy?

Mr. TAYLOR. Only from the public print.

Mr. SNEED (Williamson). I see; you have no inside knowledge of the facts which led up to the issuance of that injunction.

Mr. TAYLOR. No, I have not.

Mr. SNEED (Williamson). You will admit, Mr. Taylor, it was not an ordinary injunction? In other words, it was based on a war-time measure, wasn't it?

Mr. TAYLOR. Yes.

Mr. SNEED (Williamson). I want to ask you one more question, Mr. Taylor, and then I am done. You say that men who have left their employment should not have the right of peacefully picketing a plant of industry, did you not?

Mr. TAYLOR. Yes.

Mr. SNEED (Williamson). Do you think by the same token that the employer should not be given the right to intimidate and to refuse to treat with his employees?

Mr. TAYLOR. He certainly has no right to intimidate, but he has a right to run his business without treating with the union, if that is what you mean.

Mr. SNEED (Williamson). You can put it that way if you care to.

Mr. TAYLOR. That is what I assume you mean.

Mr. SNEED (Williamson). The question Mr. Corlett asked you relative to the employee's money in the use of strike funds: Don't you think the membership of a labor organization have as much right to buy food with funds collected just as much as the employer has in the strike?

Mr. TAYLOR. Absolutely I would say so.

Mr. SNEED (Williamson). You hold while an injunction is issued for the purpose of restraining the membership of any organization, which is a legal organization, from distributing funds in order to buy the necessities of life is wrong?

Mr. TAYLOR. I would not think it would run that way; I would say it would be in furtherance of conducting the strike.

Mr. SNEED (Williamson). Why shouldn't it be applicable to the employer who might be concerned in that strike likewise?

Mr. TAYLOR. Because the employer is not taking part in any unlawful undertaking.

Mr. SNEED (Williamson). You hold that a strike is an unlawful undertaking?

Mr. TAYLOR. Some of them are.

Mr. SNEED (Williamson). All of them?

Mr. TAYLOR. No.

Mr. SNEED (Williamson). You would restrain the membership and the men who are on strike from using their own funds for buying the necessities of life?

Mr. TAYLOR. In some unlawful strikes, at least.

Mr. SNEED (Williamson). What do you term an unlawful strike? Would you term an unlawful strike a strike where men cease to continue to

work before the expiration of the contract and were in conference with the employer to adjust that difference, would you term that an unlawful strike?

Mr. TAYLOR. I do not see anything unlawful about it.

Mr. SNEED (Williamson). Would you hold that if an employer should have the right, or a group of employers, the same as a group of labor organizations which you spoke of awhile ago to continue to contribute to a fund it had for the purpose of defeating a bunch of workmen in a strike, do you hold that the employers should not be subject to the same restrictions by injunction as the labor organization?

Mr. TAYLOR. I am sorry, but that question is not clear to me.

Mr. SNEED (Williamson). I will attempt to make it a little clearer. For instance, you had a bunch—just by way of illustration we will say a bunch of industries, we will say the mining industry which is a common one. A lot of the mines are closed up as is oftentimes the case. Some of the operators, as we call the employing class in that industry, some of the operators say, "we will have no further dealing with these employees of ours." The operators then in that group pool their resources for the purpose of defeating that strike. At the same time the men involved in that strike are staying away from the mines and are willing through their representatives to negotiate their differences with the operators, but the moment that they get on a fellows' property, who is a part of this group, and who does not want to deal further with them or their representatives, he goes before the judge and gets an injunction out against them and a fund in that group of employers is contributed to to the end of defeating that strike, which is peaceable, lawful strike. Would you hold that the employers should not be restrained from continuing to that kind of fund?

Mr. TAYLOR. I certainly would not so hold. I see nothing illegal in their right to maintain and operate their properties. I do not see how the matter of strike benefits is involved, if that is what you are getting at. From your statement it is a legal strike, nothing illegal about it, and the funds are not being employed for illegal purposes.

Mr. SNEED (Williamson). Yes.

Mr. TAYLOR. And the injunction in such a case would not run against the payment of strike benefits. It is rather rarely that an injunction runs against the payment of strike benefits, but only where it is clear that they are being improperly used for unlawful purposes.

Mr. SNEED (Williamson). Do you make that statement advisedly?

Mr. TAYLOR. I think so.

Mr. SNEED (Williamson). You do?

Mr. TAYLOR. Yes, sir.

Mr. SNEED (Williamson). You would not say in every instance that you have knowledge of, where funds have been tied up by injunctions, that those funds have been used for unlawful purposes, would you?

Mr. TAYLOR. Every injunction I ever heard of in which the payment of strike benefits are enjoined, dealt with an illegal strike and the use of the funds for illegal purposes, and the instances of it are very few.

Mr. SNEED (Williamson). In qualifying your statement, do you mean paying out benefits to maintain families would be an unlawful purpose?

Mr. TAYLOR. I am not passing upon that to say that it should.

Mr. SNEED (Williamson). The reason I asked the question, you qualified your answer. Can you define an illegal strike?

Mr. TAYLOR. I have spoken of one, I presume before you came in, as a sympathetic strike.

Mr. SNEED (Williamson). That was an illustration; it was not a definition of an illegal strike in your own language.

Mr. TAYLOR. An illegal strike is one in violation of contract or agreement, that might be one; it might be one for the purpose of committing an injury without any benefit involved for the union, no justification for it, might be another.

Mr. SNEED (Williamson). Well, that is true; have you another in mind?

Mr. TAYLOR. I do not think of any more at the present time.

Mr. SNEED (Williamson). I believe you said to Mr. Mack (Hancock) that you did not favor this Convention going on record of putting in its basic law an industrial court, did you not, or a procedure which would lead up to an industrial court?

Mr. TAYLOR. No, I do not advocate it at this time, if ever.

Mr. SNEED (Williamson). Are you favorable to the incorporating of labor unions and capital where they are dealing jointly together?

Mr. TAYLOR. May I inquire how that question has anything to do with this subject?

Mr. SNEED (Williamson). I beg your pardon. if I have gotten away from the subject; I simply wanted your opinion on that.

Mr. TAYLOR. I would like to confine myself fairly well to this proposition.

Mr. SNEED (Williamson). I beg your pardon, if you think I have placed you in a false position. I merely asked that for my own information, that is all.

Mr. SCANLAN (LaSalle). I do not think I should allow this opportunity to go by without challenging some statements that were made, derogatory statements in reference to a strike in LaSalle County, in my immediate neighborhood. As I understood you, Mr. Taylor, you said that all the damage and the disturbance was done by the strikers?

Mr. TAYLOR. Substantially so. I do not know of any other, and there was a great deal of it.

Mr. SCANLAN (LaSalle). I happen to know that everything was quiet until they imported strike breakers.

Mr. TAYLOR. I differ with you.

Mr. SCANLAN (LaSalle). Those strike breakers were not angels, by any means; they did not confine themselves to the plant but wandered around town and looked for trouble.

Mr. TAYLOR. I take issue with you upon that. These were the facts, when the strike was called the militia was sent there during Governor Dunne's term of office, or shortly before he retired, and it was at his instance the operators did not operate while the militia were there. The militia was withdrawn and then the operators attempted to operate. They brought in their employees by railroad, put them in the plants, kept them in the plants there, and they were hemmed in by the strikers. There was an incendiary fire resulting in one hundred thousand dollars loss, there was one man killed by strikers who was appointed as special policeman of Oglesby, a man who was trying to make his escape from the town, and he was a cripple at that, and your State's Attorney did not prosecute for it; he called the man a desperado. The strikers drove the mayor of Oglesby off the street; they ran after him, jumped on his back, they stoned him, and he did not dare to go down town for a couple of months.

Mr. SCANLAN (LaSalle). It was because he was a worker at the plant with the strike breakers.

Mr. TAYLOR. He was an employee of the plant.

Mr. SCANLAN (LaSalle). You represented these companies in getting the injunction?

Mr. TAYLOR. Yes.

Mr. SCANLAN (LaSalle). You see it from their point of view?

Mr. TAYLOR. I saw it as it actually happened. I was down there.

Mr. SCANLAN (LaSalle). After the strike was broken the companies gave them an increase in wages and an eight hour day.

Mr. TAYLOR. I don't know what happened after that; I did not follow it.

Mr. SCANLON (LaSalle). The very thing the men asked for, they granted the increase in wages.

Mr. TAYLOR. The men were striking for a unionization of the plants.

Mr. SCANLAN (LaSalle). Well, they organized, demanded an eight hour day and an increase in wages. The injunction was not issued until near the end of the strike. The strike was broken when the injunction was issued.

Mr. TAYLOR. People did not dare to go into court and testify.

Mr. SCANLAN (LaSalle). All the trouble was not chargeable directly to the strikers?

Mr. TAYLOR. As a matter of fact, Mr. Scanlan, you had a very deplorable state of affairs in Oglesby. Everybody conceded it at that time.

Mr. SCANLAN (LaSalle). These are the facts, the authorities that were attempting to adjust the strike were double-crossed by importation one night, of a train-load of men at the plants, and that was the main cause of the trouble.

Mr. TAYLOR. My understanding is that Governor Dunne sent General Dickson down there to see what he could do, to see if he could not bring the parties together while the militia was there. When they could not get together, then the militia was withdrawn and the trouble broke out.

Mr. SCANLAN (LaSalle). They gave their word to the Mayor of LaSalle that they would not import strike breakers, and the men were imported.

Mr. TAYLOR. Nothing of the kind, I was there.

Mr. MIGHELL (Kane). I am informed that when there is an industrial dispute between the milk peddlers and the employers in Chicago, and the milk supply shut off that approximately one hundred babies die every day. Is there any remedy in law or equity at the present time to prevent that catastrophe in case of an industrial dispute of that character?

Mr. TAYLOR. I think there is.

Mr. MIGHELL (Kane). What will it be?

Mr. TAYLOR. I think that the Attorney General or State's Attorney has the power to go into court to correct and to prevent these interferences with public supplies, necessaries of life.

Mr. MIGHELL (Kane). Has that been done?

Mr. TAYLOR. No.

Mr. MIGHELL (Kane). If that right exists, would you advocate this when perhaps the strikers were in the right in their effort?

Mr. TAYLOR. I would advocate under all circumstances getting the necessary supplies into a city.

Mr. MIGHELL (Kane). Would you advocate taking the right to strike away from workmen who were trying to right their grievances, without giving them a place to go for justice?

Mr. TAYLOR. Is that involved in this?

Mr. MIGHELL (Kane). Yes, it is involved in this.

Mr. TAYLOR. There is nothing in here about that.

Mr. MIGHELL (Kane). You have been answering questions and expressing an opinion on the industrial court proposition?

Mr. TAYLOR. The industrial court is not involved in this.

Mr. MIGHELL (Kane). You have answered the question already, expressed your opinion. I would like to have you answer my question.

Mr. TAYLOR. Very briefly and meagerly.

Mr. MIGHELL (Kane). If you do not care to answer it, that is all right. I will not press it.

Mr. BARR (Will). Mr. Taylor, referring to section one, I may be somewhat dense, but I have not yet been able to get just your point of view as to the objection to inserting it in the Constitution. We heard a good deal of talk a few days ago about the reason why it should be inserted in there, and I have not been able to gather, except your position that labor ought not to ask it—just what your objection is to its being inserted in the Constitution?

Mr. TAYLOR. I think it is contrary to facts a statement there that labor is not property. I think it is property. I think a man, for instance, a man acquires dollars, it is his property. It is a consummation of what? His labor. He has an interest in that power of labor which is consummated in the dollars, representatives; it is not the dollars alone that are property, as I see it, he has a property right.

Mr. BARR (Will). Assuming that is true, what further objection is there? Does that go further than simply the fact that it is not true, not a true statement of facts?

Mr. TAYLOR. I don't know why the employer should be interested if labor wants to declare that labor is not property. I think when the court gets to it, that they would hold it is property as they have in the past, and that the laborer is entitled to protection in his property rights.

Mr. BARR (Will). Assuming the Constitution defined labor as not being property, would it be your opinion that the courts dealing with that subject, in the State of Illinois under the Constitution would still hold it should be dealt with as property?

Mr. TAYLOR. I would not care to express myself or give an opinion as to what would be done. I should think the workmen would be interested in preserving their rights.

Mr. BARR (Will). They seem to take quite the opposite view, that it is desirable to have it defined in that way, and I wondered whether or not from your point of view, there is another reason.

Mr. TAYLOR. I firmly believe that they have put that in there, believing that somehow or other it will prevent an injunction from issuing.

Mr. BARR (Will). That is what I had in mind, I wanted to get your view of it.

Mr. TAYLOR. I believe it is against their own interests.

Mr. BARR (Will). I wondered if there was a possibility of that understanding in the power of the Court to deal with it, because it was defined as not being property, and therefore the court would not have jurisdiction.

Mr. TAYLOR. I understand that to be the position of the proponents of the measure.

Mr. BARR (Will). Take section two, the last part you have discussed, I am not able to understand the extent of limitation of the words, "the right of workmen to organize into trade and labor unions and to deal and speak through representatives chosen by themselves is declared and it shall not be abridged." I am much interested in learning your view of the extent that that last part of that section goes, what it means.

Mr. TAYLOR. I am inclined to think it would be construed to relate only to proper and lawful organizations.

Mr. BARR (Will). That is the first part of it.

Mr. TAYLOR. Yes, and the abridgment would be construed to refer to that only. That is what I think about it; still others probably would contend there could be no interference with labor organizations.

Mr. BARR (Will). Would it be your view that there was in contemplation the thought that an employer might not, under this provision of the Constitution, have the right to refuse to deal with representatives of labor organizations?

Mr. TAYLOR. Yes, that might be claimed too.

Mr. BARR (Will). Just what do you mean, Mr. Taylor, by jurisdictional strikes? You used that term.

Mr. TAYLOR. Where different unions claim the right to do one kind of work. Take for instance, the carpenters handling woodwork, sometimes metal work is a part of that; these metal workers may be interested in that work. Now, the article is made up of both, and the carpenters' union will claim jurisdiction and the sole right to do that work for its members, whereas the other union, the sheet metal people will claim the same right, and they cause cessation of the employment or strikes. The employers us carpenters upon that and the sheet metal workers go on strike. As the sheet metal workers are affiliated with certain unions, those unions go on strike and tie up a whole building.

Mr. BARR (Will). In section two, assuming that is true, what right would you think was given under the last part of section two.

Mr. TAYLOR. Well, of course, I would interpret it to mean only proper and lawful organization for lawful purposes. What others would contend, I do not know.

Mr. BARR (Will). The first part, "the right of workmen to organize into trade and labor unions and to deal and speak through representatives

chosen by themselves is declared and it shall not be abridged." What is your thought of what is meant by that last part?

Mr. TAYLOR. Well, I assume that they mean the right to organize and speak and deal through their organization and representatives shall not be in any way be interfered with or abridged; whether it means that anything tending to interference with collective bargaining or any form or organization is meant, I don't know. It is pretty hard to say; I don't see the use of it. We have one very serious phase of organization effort right now, and that is not only union shops, but union markets; the great city of New York is supposed to be a union market only for certain things and no outside cabinet work, we will say, may come in, that is any work that is processed or done outside, or perhaps no marble preparation not done in New York can be employed in New York. The same in Chicago. The idea of closing the local market to all excepting the local dealer on the one hand and the local worker on the other hand, and sometimes they work together on it. Now, that is a bad thing for all concerned; the local workmen and the local employer. Maybe they think it is a good thing, but the public is hurt by it.

Mr. BARR (Will). With reference to section 3, that part which provides that there shall be no interference with peaceful persuasion and picketing; it is your view that that should not be in the Constitution and that picketing should be susceptible of being enjoined?

Mr. TAYLOR. It should be under court control in proper cases.

Mr. BARR (Will). What would be your view of the right of an employer in case of strike to peaceful soliciting of other employers not to employ the men that had gone out on strike from his plant?

Mr. TAYLOR. Well, I don't think he should do it.

Mr. BARR (Will). Is not that practically the other end of the situation, of the right of the employee to picket and persuade men not to go into employments. If he is allowed to do that, should not the reverse be true, that the employer should have the right to peacefully persuade other employers not to employ men on strikes?

Mr. TAYLOR. Under my observation, that is not done. As a matter of fact, I find the market is pretty active, the employers are jumping in. You take the express strike, for instance, the employers in all lines are hiring those men; there is competition for labor.

Mr. BARR (Will). Do you think the law should provide that employers should have the right to seek to persuade other employers not to employ men that have left their employment?

Mr. TAYLOR. There should not be anything so provided by law.

Mr. BARR (Will). And do you think that the Constitution should provide either that employees might peacefully persuade other men from working or that employers might peacefully persuade other employers from employing striking employees?

Mr. TAYLOR. I do not believe I quite get that.

Mr. HAMILL (Cook). Do you understand under the law as it is now if non-union men who have supplanted union men on strike are interfered with or intimidated, that they have any remedy in law?

Mr. TAYLOR. Yes.

Mr. HAMILL (Cook). On what theory would they have a remedy at law?

Mr. TAYLOR. Only on the theory that they have a right in their labor.

Mr. HAMILL (Cook). And that is a property right?

Mr. TAYLOR. That is a property right.

Mr. HAMILL (Cook). If therefore we put into the Constitution a provision that labor is not property, would we not put the non-union workmen in a position where he could not protect his right to labor when he was interfered with by organized labor?

Mr. TAYLOR. Yes, sir.

Mr. HAMILL (Cook). Had it occurred to you that that is the object in setting it up in the Constitution?

Mr. TAYLOR. I have not thought of that, but it is quite possible.

Mr. HAMILL (Cook). It is not uncommon for unorganized labor to seek the protection of the court against organized labor when organized labor seeks to interfere with unorganized labor's right to labor.

Mr. TAYLOR. That is true.

Mr. HAMILL (Cook). If this first section was changed in this way, "the labor of a human being is an attribute of life and is not property, and the right of every man or woman to work upon terms acceptable to him or her, and his or her employer in any gainful occupation not forbidden by law is hereby guaranteed and shall not be abridged," it would do away with the objection I have stated, would it not?

Mr. TAYLOR. It might be a contradiction in terms if you leave in there "labor is not property."

Mr. HAMILL (Cook). If organized labor wants to have their labor dignified so it could not be called property and still the Constitution provide the right to labor is guaranteed and shall not be abridged, it does not make any difference whether you call it property or non-property, does it?

Mr. TAYLOR. It seems so to me, Mr. Hamill; I do not think in the same sentence that there should be a statement it is not a property right and at the same time be guaranteed.

Mr. HAMILL (Cook). Such a clause as I have just suggested would possibly be subject to the criticism you have offered, that there is apparently the contradiction, but would it in your opinion protect the non-union man against attempts to interfere with his right to work?

Mr. TAYLOR. I think it would, because I doubt if the courts would uphold the declaration that it is not property.

Mr. HAMILL (Cook). It would not deprive organized labor of any right to which it is now entitled, after all?

Mr. TAYLOR. No.

Mr. SNEED (Williamson). If I understand you right, Mr. Taylor, in reply to Mr. Hamill, you said that your interpretation of this first section would be to mean to organized labor it is not property, but to non-union labor it is property. Is that your interpretation of that section? Do you mean to say, Mr. Taylor, that if this part of this proposal was adopted that it could be interpreted to mean to organized labor that organized labor was not property, but to non-union labor it was property?

Mr. TAYLOR. I did not mean to be so understood.

Mr. HAMILL (Cook). I did not so understand you.

Mr. SNEED (Williamson). I thought that is what you answered Mr. Hamill. You said relative to incorporating labor unions and capital that it did not have any bearing on this question; later in reply to another delegate to this Convention you stated that the Attorney General of this State in your opinion had certain methods that he could use that would prohibit the starving of babies in Chicago because of a milk drivers' strike. I presume babies of those milk drivers too, and that the Attorney General would be empowered to do that under the same procedure?

Mr. TAYLOR. I submit that no statement I have made ought to be subject to such an interpretation.

Mr. SNEED (Williamson). Do you think it would be as fair to one as to the other, Mr. Taylor?

Mr. TAYLOR. What I mean is, I think the State has the power to protect its citizens in the getting and the supplying of the necessaries of life; it must have, and that means all of its citizens.

Mr. SNEED (Williamson). That is what I was going to ask you, do you mean to apply that to all the citizens of the State?

Mr. TAYLOR. Certainly.

Mr. SNEED (Williamson). There should be no distinction?

Mr. TAYLOR. Certainly not

Mr. SNEED (Williamson). A full protection to all the people of the State of Illinois?

Mr. TAYLOR. Certainly.

Mr. MOORE (Macon). You refer to a couple of cases where labor had appealed to the court in protection of their labor as property rights, didn't you?

Mr. TAYLOR. Yes, sir.

Mr. MOORE (Macon). Then the courts have held that labor is a property right and that it is entitled to protection?

Mr. TAYLOR. Yes, in many cases.

Mr. HAMILL (Cook). I move that the committee do now rise and report progress and ask leave to sit again.

(President Woodward presiding.)

Mr. FYKE (Marion). Mr. President, your Committee on Labor and Industrial Affairs reports progress and asks leave to sit again.

(Report adopted.)

Mr. MOORE (Macon). I move we adjourn.

(Motion carried.)

Whereupon an adjournment was taken by the Convention to Thursday, April 15, A. D. 1920, at 10:00 o'clock a. m.

THURSDAY, APRIL 15, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Friday, April 9, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Friday, April 9, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals.

Mr. TRAEGER (Cook). I ask the unanimous consent of the Convention for the introduction of a proposal.

THE PRESIDENT. There being no objections, the consent is given.

Whereupon the Convention further proceeded upon the order of first reading of proposals, second reading of proposals, motions and resolutions.

Mr. MACK (Hancock). I have in my hand here a letter addressed to the Reverend William H. Nicholas, coming from the general Lutheran Conference of Illinois. I also have a letter from that body to the Chairman of the Committee on Bill of Rights. I want to say in connection with this, if I may do so, that this conference representing their entire membership, does not desire to ask any action of this body at all, but in view of a statement that has been made as to their position on a certain question, merely want these letters to be read and to go into your record to show the status of that body, and I want to explain, Mr. Chairman, to make it perfectly plain they are not asking the action indicated in this letter, but simply to have the body that has this in hand to be set right, and I now ask that this letter may be read and spread upon your records.

Mr. PINCUS (Cook). I move that the letters be referred to the proper committee, the Bill of Rights.

THE PRESIDENT. The motion will be in order after the reading of the letters.

(Letters are read by the Secretary.)

CHICAGO, *April 9th, 1920.*

Rev. Wm. H. Nicholas, 714 E. Capitol Ave., Springfield, Ill.

MY DEAR REV. NICHOLAS: At the meeting of the State Conference of Lutheran Pastors and laymen in Chicago, Wednesday, April 7th, in the interest of the World Service Campaign, the question of the reading of the Bible in the public schools of Illinois which matter has been before the Constitutional Convention at Springfield, was taken up for discussion and resolutions were passed, a copy of which I herewith enclose. The resolution was presented by Rev. Peterson of Chicago, President of the Illinois Conference of the Aug. Synod.

The reason that this matter was brought up at this time before this body was that it was reported that it had been said that the Catholics and Lutherans of Illinois were opposing any such provision in the proposed Constitution and the men who were present at this meeting wanted to have a protest registered against any such measure. It was thought best that you together with Judge D. E. Mack, who I understand is a member of the Constitutional Convention, might present this matter in person on our behalf. I take this liberty therefore, to ask you kindly to take the matter up with

Judge Mack and if there be no objection that you present the resolution to the Convention.

As you know, from correspondence that you have already received from me relative to the World Service Campaign of the National Lutheran Council, I have been selected as State Chairman, and in the capacity of presiding officer at the aforesaid Conference, I was instructed to write to you in the matter.

Very sincerely yours,

Signed: C. E. HOFFSTEN.

CHICAGO, *April 7th, 1920.*

Hon. T. M. Rinaker, State House, Springfield, Ill.

MY DEAR SIR: At the meeting of representatives from the Lutheran Churches in the State of Illinois affiliated with the National Lutheran Council in Chicago, Illinois, April 7th, 1920, it was resolved that we, representatives of the churches of the National Lutheran Council in the State of Illinois, with a membership of ninety-seven thousand (97,000), urge the Constitutional Convention of the State of Illinois to adopt Proposal No. 239 providing for the reading of the Bible in the public schools of the State of Illinois. The proposal reads as follows:

As religion, morality and knowledge are necessary to good Government and the happiness of mankind, each teacher in the public schools of this State shall at the opening session of each school day read without comment, a selection from the Bible.

Signed: C. E. HOFFSTEN, *Chairman.*
PETER PETERSON.

THE PRESIDENT. Without objection, the letters will be referred to the Committee on Bill of Rights for consideration.

Whereupon the Convention further proceeded upon the order of unfinished business, general orders of the day.

THE PRESIDENT. Under the general orders of the day the report of the Committee on Suffrage is set for consideration in the Committee of the Whole. The Chair designates Delegate Cruden, Chairman of the Committee on Suffrage, to act as Chairman af the Committee of the Whole. (Applause.)

(Chairman Cruden presiding.)

CHAIRMAN CRUDEN. Gentlemen of the Convention, I sincerely hope that this great outburst of applause has been occasioned by your appreciation of this Proposal No. 351, we have brought before you this morning. If that be true I can safely say that this Committee on Suffrage might well consider itself in the very midst of a pleasant if not a perfect day. In accordance with the rules of the Convention the Secretary will now read the proposal.

(Secretary reads Proposal 351.)

Mr. TRAEGER (Cook). I move you, Mr. Chairman, that we take this up section by section.

CHAIRMAN CRUDEN. Gentlemen of the Convention. Before proceeding further with the proposal for the purpose of adoption it might be profitable if I would make a statement with reference to the work of the Committee on Suffrage. The President referred to our Committee sixteen proposals; there has been embodied in the new proposal the sentiments expressd in three of the proposals. Among the proposals that are not included in this substitute for all that came before us is the question of compulsory voting, absent voting, educational tests, the question of paupers or those that were receiving maintenance from the State being excluded from the right of suffrage, and those who were insane being out of the class who would be entitled to vote. In the Committee on Suffrage there was very little sentiment among the members to include any of those proposals. Under section one is a new proposition there presented to the Convention by Delegate Lohman (Cook). Every delegate who had their proposals included in this new substitute proposal agreed to defend their proposal on the floor of this House. Mr. Trautmann, who has one of the most substantial sections, will defend his when we get to that part of it. You will see in section one we have eliminated

the word "male" in order to bring the section in harmony with the up-to-date thought on equal suffrage for all of our citizens of Illinois, and then the latter part of section one, expressed by Mr. Lohman, was for the purpose of preventing women who come to the United States and marry citizens, from voting in Illinois until they have lived in the United States five years which is the period required for men to become citizens. In order that you might have some idea about the unanimous sentiment in the Committee for this substitute proposal and the casting aside of the other proposals that have been presented, it might be well at this time for us to hear from Delegate Traeger, who has given time and thought and has expressed his ideas on several of the things we discussed in the Committees. Mr. Traeger, will you say something at this time?

Mr. TRAEGER (Cook). After full discussion in the Committee of section one, which was finally adopted by the Committee, which to a great extent is the same as the original Constitution of 1870, with the exception that there was placed in here, "all persons male or female must be residents of the United States for five years before they can become legal voters;" this was done upon the suggestion of the members of the Committee, all believing that where a person, for instance a female, came from some foreign country and married a citizen of the United States, she would thereby become a legal voter. In other words, she would enjoy a right and privilege that the voters that were born here would not enjoy and inasmuch as the law requires that all male voters in order to become citizens of the United States, must have resided in the United States five years or more, we believed it was for the best interests that that also apply to the women voters, and therefore, Mr. Chairman, I move the adoption of section one.

Mr. HULL (Cook). I would like to ask Mr. Traeger a question or two about this section. Is Mr. Traeger, or the members of the Committee, under the impression that this section as proposed gives complete suffrage to women for all offices?

Mr. TRAEGER (Cook). Absolutely. If I might add here one word; at the beginning of our meeting I moved that the word "male" be substituted and the words "all citizens of the United States" be substituted therefor, which was unanimously adopted.

Mr. HULL (Cook). May I beg leave to suggest an inquiry of a portion of the section which has to do with suffrage so far as it concerns sex; that is largely taken from the old Constitution, is it not?

Mr. TRAEGER (Cook). A great portion of it, yes, sir.

Mr. HULL (Cook). In the Zarnecki case it was decided that particular provision governed only constitutional offices.

Mr. TRAEGER (Cook). But by omittting the word "male," and substituting the words "all citizens of the United States," it was the unanimous opinion of the Committee, and among them were some attorneys, that that would give women the right to vote for all offices.

Mr. HULL (Cook). They have the right to vote now for statutory offices in accordance with the Act of Legislature, but this particular provision was held by the courts to apply only to constitutional offices. Now, my inquiry is this: Would not the courts be bound to follow the decision of the Gamecki case and conclude that they gave the right of suffrage to men and women, so far as that is concerned, only in voting for the constitutional offices, and that so far as statutory offices are concerned the question of the right to vote to fill those offices would still be in the power of the legislature and that they could, until a constitutional amendment was adopted, repeal the Suffrage Law, or modify it in any way.

Mr. CARLSTROM (Mercer). As I understand the decision of the courts of this State and the Supreme Court of this State, they have held that the legislature of Illinois would grant complete suffrage to women on all offices and on all questions which were not created by the Constitution, because the Constitution uses the limiting word "male;" they have held in a number of decisions on school questions and on petitions for the initiating of school districts and otherwise that a woman is a citizen; that being true, I think, and I was before this committee on this subject—if the Supreme Court of

the State of Illinois has held a woman is a citizen, and we grant this complete and adequate suffrage to every citizen of Illinois we grant suffrage upon all questions and upon all offices to women. I so understand and I so argued before this Committee.

Mr. HULL (Cook). If you had said "all elections" I would say you were right, but tne words "such elections" is borrowed from the old constitutional provisions, and the court in passing on that has said that that particular clause relates only to constitutional offices.

Mr. HAMILL (Cook). I call the gentleman's attention to the line preceding that which says "any election."

Mr. TRAEGER (Cook). If there is anything wrong about that it should be corrected. It was our intention that women should have the right to vote at all elections just the same as men, and when we inserted "any election" and substituted for "male" the words "all citizens of the United States" we believed that that would cover the point. If we were wrong we would like to have it corrected.

CHAIRMAN CRUDEN. Might I say a word for the benefit of Senator Hull: When we had under discussion this section 1 we had the advice of Mr. Dodd and Mr. Verlie of the Legislative Reference Bureau, who had given this subject considerable study, and everybody seemed to be satisfied that this was sufficient to cover all the objections that Mr. Hull speaks of.

Mr. HULL (Cook). It would be well to get it in the record that it was so intended.

Mr. WALL (Pulaski). The Supreme Court of the United States has held in the case in Kansas that women were citizens of the United States. It strikes me that the language here is proper, it is well put in, and there is no extra verbage in it, and it does undoubtedly confer on women the same as men the right to vote since they are citizens, and to vote at every election the same as men.

Mr. HULL (Cook). The word "election district" is used in the third line of this proposal.

CHAIRMAN CRUDEN. That is the language of the present Constitution, Mr. Hull.

Mr. HULL (Cook). Yes, I know. In this book called "The Annotated Constitutions of the State of Illinois," on page 187, reference is made to the words "election district," and the note says the Supreme Court has considered the words "election district" have no settled meaning. I am advised there have been cases in which the words were up for consideration in the courts. I find a paragraph with the opinion of the court in the 225th Ill. in which reference is made to these words; this is the case reported in this annotation; the word "district" and "precinct" as used in the Illinois laws, since the present Constitution was adopted have not always been used in the same meaning. Sometimes they have been so used that the word "precinct" meant a larger territory than the word "district," district being a subdivision of a precinct. There appears to be a case which occurred in Bloomington where two elections were held at the same time and the precinct and district do not coincide, and the question arose as to the right to vote in that election, and the court frankly confessed that the word was of uncertain meaning, and I wondered whether it would not be better to use the word "precinct" instead of "district."

Mr. CARLSTROM (Mercer). I think you will find in reference to the proposal I offered, and which was considered by the committee, that I used these words "district or precinct;" I think it is safe to use these words, and I think the objection made by the gentleman from Cook (Mr. Hull) is well taken. I think there should be an elimination of any question as to what we mean, and that can be eliminated by adding the words after district "or precinct," and I believe that would meet the objection made by the member from Cook, and I think it is really an essential amendment.

Mr. TRAEGER (Cook). Mr. Chairman, in view of the fact that they believe this to be essential, then I would add to my motion that the words "or precinct" be added after "district."

Mr. BARR (Will). I understand, and it is my observation at election times in the down-State elections, as I understand the ruling of the Attorney General at least, that the voters are not bound by the present division of the townships, but in a township election they vote in any precinct in the township, and the residence in the township for the prescribed period constitutes the requirement, and it would seem to me that if there is some change to be made in this language that it is a matter that ought to receive very careful investigation before we insert some other description. If this is wrong and subject to erroneous construction, then let us not put in some other modying term that is also subject to an erroneous construction or different construction, and it occurs to me that the word "precinct" added would only complicate the situation rather than assist.

CHAIRMAN CRUDEN. I am sure that any of the suggestions from the delegates are for the best interests of the proposal, and if anyone has any other suggestions they might make them now while we are on the subject.

Mr. MILLS (Macon). I think this difference in description of precinct and district has grown out of the elections that have been held in down-State elections The Supreme Courts have held that the township is one election district and that the voter can vote, where the town is divided into precincts, must vote in the election precinct in which he resides on election day. It does not make any difference how short a time he has lived in that precinct, provided he has lived a year in the State, ninety days in the county, and thirty days in the township. And in the city elections we have down State the precinct or district; there the voter must have lived in the State a year, in the county ninety days, and in the election district thirty days preceding each and every election. Now, there is the difference between the construction of the Supreme Court; the Supreme Court's first decision was that a voter, if he had lived a year in the State, ninety days in the county, and thirty days in the precinct, could vote in any election precinct in the township election, but they revised that afterwards and held he must vote in the election precinct in which he resides on the day of the election. Now, there is a difference between the law in the spring and the law in the fall. In the fall elections all elections are alike so far as I have been advised, that the voter must have resided in the State a year, in the county ninety days, in the elction district in which he resides thirty days, next preceding the date of election. That is my understanding about it. In other words, the Supreme Court by its decision, the first decision was that it made the whole township and the township organization an election precinct, just as we have it here, when the Senator was reading just a few minutes ago, that formerly the whole township was the election precinct, and then it was changed just as I have stated. Now, to make it more certain it probably might be well to include, so there could not be any doubtful construction to the question at all—let's settle it now if there is to be any dispute about it hereafter, let's fix it so plainly that there cannot be a double construction—that wherever a man can vote a woman can vote.

CHAIRMAN CRUDEN. In Proposal No. 9, introduced by Delegate Carlstrom, he had the words "or precinct" in there, and that was under discussion in the sub-committee of the Suffrage Committee that undertook to decide all questions, and on account of the statement that has been made in the Convention that it might be well to retain just as much of the old Constitution as possible, we thought it was perfectly safe to use the language of section 1 of the present Constitution. Therefore it was not changed; this is exactly as it was before.

Mr. McEWEN (Cook). On the subject of the word "district," I am impressed with the thought that that is the word considered broad enough by the courts to cover all election precincts or units, but the matter which I think we should reconsider is the language of this section as applied to the question of sex, the question having been raised by the delegate from Cook, Senator Hull. The language of this section is identical with the section of the Constitution of 1870, in that except, of course, that the word "male" is stricken out. The old Constitution said "that every person residing in the State," and so forth, "who shall be a male citizen of the United

States should be entitled to vote." The Supreme Court, by Mr. Justice Bailey, some thirty years ago or more in an analysis of that section in connection with a school officer held that the Constitution related only to the qualification of a voter who was voting upon an office created by the Constitution of 1870. Now, so far as the language of the section proposed in 351 is concerned, as applied to a statutory office or a Constitution office, it is identical to the language of the Constitution of 1870, and if the Supreme Court were to follow the precedent of those school cases and the precedent of the Czarnecki case, where the reasoning was followed and applied, it would say that the Constitution in section 1 of 351, that that referred to offices arising or created under the Constitution. It seems to me that we can avoid any question by very slight change. One reading that section of 1870 in a casual way would say that the Constitution was endeavoring to provide qualifications of electors generally, to give it a narrow construction and the most limited construction, which was done by the Supreme Court, and no doubt wisely, it was held that it applied only to constitutional offices. I would suggest and move that there be inserted after the word "election" in the fifth line the following, "any and all elections," so it reads "shall be a qualified voter at such election," and insert "any and all elections." Upon the suggestion of the delegate from Will (Mr. Barr) I think that possibly would be an improved amendment.

CHAIRMAN CRUDEN. Judge McEwen, do you think the Supreme Court would have decided the other way you mentioned if the word "male" had not been in the Constitution of 1870?

Mr. McEWEN (Cook). Possibly not.

CHAIRMAN CRUDEN. Then it may be this is not required.

Mr. McEWEN (Cook). The question might never have been raised, but Judge Bailey was trying to give effect to the Act of the Legislature with the least possible limitation upon it. My motion will now read, after the word "therein" there be inserted "for any constitutional or statutory office or proposition."

CHAIRMAN CRUDEN. There is a motion pending before the House from Delegate Traeger with reference to adding the words "or precinct." Since he made that motion several men have spoken. Mr. Traeger, since you offered the amendment adding the words "or precinct" to section 1 several men have spoken, but not entirely in harmony with your idea. Do you still insist on your motion?

Mr. TRAEGER (Cook). After considering that and discussing it with various members I want to withdraw the words "or precinct" and leave it as originally worded "election district."

Mr. GALE (Knox). Mr. Chairman, it seems to me, that this amendment Judge McEwen has just offered is not an amendment which is necessary to this section. I am opposed to it, because I think the section should be kept as simple as possible. I have no fear whatever in the light of the Supreme Court decisions, or any decision upon this section as it now stands for giving the right of women to vote, and for this reason; in all cases before the Supreme Court hitherto where it has been held that this section guarantees the right to vote to every citizen coming within the section; now, formerly that was male citizens. The following of the Supreme Court in the Czarnecki case was not that the legislature could limit the right to vote, but that the legislature could extend the right to vote for offices not constitutional offices to women, but there was no holding that they could restrict the right of persons guaranteed the right under the Constitution. Now, when you put women in the same class as men, you guarantee by that same language the right of women to vote, then the fact that the office is a Constitution office or a legislative office makes no difference. The question would have to be raised on the proposition that the legislature had the right to restrict the right of suffrage when the Constitution had guaranteed the right to suffrage, and the cases already decided on the school elections and the Czarnecki cases, would not be any authority whatever upon that proposition, whereas the Strassheim case and the cases along that line would be authority on the proposition that the right to vote could not be restricted. Therefore I am opposed to this amendment to the section.

Mr. TAFF (Fulton). I think it could be amended very easily. Therefore I move you that we amend the section by striking out line five of section 1——

CHAIRMAN CRUDEN. Mr. Taff, if you have any amendment to suggest, you had better put it in writing.

Mr. TAFF (Fulton). It is very short. If my suggestion meets with the approval of the Committee of the Whole I will reduce it to writing. My amendment is to strike out the words "such elections" and insert therein the words "all elections" so that the section will read "shall be a qualified elector at all elections."

Mr. GALE (Knox). In order to make sense of that section the word "such" is necessary there, because you say "having resided in the State one year, in the county ninety days and in the election district thirty days, and of the age of twenty-one years shall be a qualified elector at all elections." To add "such elections" where they have resided in the district and State previous to that election—you must leave that there, no matter what other words you put there.

Mr. TODD (Peoria). I want to speak against the amendment proposed by the delegate from Cook (Mr. McEwen). If he is correct in his argument, there has not been a time in the history of this State when the legislature could not disfranchise at an election held for statutory office every man in the State of Illinois. His theory is, we can pass a law to disfranchise women for statutory offices; if he is correct we could extend that law and disfranchise all males over the age of thirty-five, twenty-five or any age we saw fit. Now, we have taken out the word "person" in the first line of this section and inserted the word "citizen" and stricken out the word "male." If that does not apply to every citizen, I do not see how any section can be drawn that would apply to every citizen, and I believe that section as drawn by the committee, and as submitted, is so drawn that the legislature could not disfranchise a single person in this State who came within the description here, except those persons who were by reason of mental qualification unfit to vote. I think we should vote down any amendment offered to this section as submitted by this committee.

CHAIRMAN CRUDEN. I know of no delegate who has done more for the cause of suffrage for women than Judge Cutting, and I would just like to hear from him on this subject. (Applause.)

Mr. CUTTING (Cook). Mr. Chairman: My friend at my right (Delegate Barr) dubs me the champion of the women; I rejoice in the title.

CHAIRMAN CRUDEN. You will be getting some roses some day. (Laughter.)

Mr. CUTTING (Cook). It was with that purpose in view that I made the statement I did, and I trust I shall not fail. I am pleased to say that with Judge McEwen I was somewhat intimately connected with the Czarnecki case, and I think the gentleman from Knox (Gale) and the gentleman from Peoria (Todd) are correct, that if there could be any disfranchisement of women under the Constitution as proposed there could have been at any time a disfranchisement of males for statutory offices. That would have been impossible. This is simply to eliminate, I take it, the word "male," and nothing further, and that now removed, an unlimited suffrage is given in all matters beyond question to both males and females who have the other qualifications mentioned in the section. I think the committee's report should be adopted in that section.

Mr. CARLSTROM (Mercer). There being no amendment before the House in form, I think we should vote on the question of the adoption of the section.

CHAIRMAN CRUDEN. We still have Judge McEwen's motion, unless he cares to withdraw it after this broad statement.

Mr. CORLETT (Will). I do not understand that the amendment is offered upon the theory that sometime the legislature might disfranchise women. I understand that the position of the gentleman from Cook (McEwen) who offered the amendment is this: The legislature, being limited by the provision in the Constitution, undertook to extend to women the right

to vote upon school offices. The Supreme Court held that the constitutional provision relating to the qualifications of voters applied only to voting for offices or officers created by the Constitution of the State and not to those created by Statute. Now, the language of section 1 of Article seven of the present Constitution is: "Every person having resided in the State one year, in the county ninety days and in the election district thirty days next preceding any election therein." Now, the same language you will find in the proposal now being considered by this committee, the language "any election therein." That language has been construed as applying to elections for offices created by the Constitution of the State, and that the language "any election" does not relate to elections for offices created by statute. Now, it is not a question, as I understand it, that the legislature may at some time undertake to disfranchise women, because I am satisfied that could not be done; women now have the right to vote upon certain offices created by statute; certainly they have not the right to vote for officers created by the Constitution at the present time. If the Supreme Court should take the view in the future that the language "any election" applies to and is limited to elections for constitutional offices only, then it would require a further act of the legislature to give women the right to vote, for instance for delegates to the national nominating convention and in the presidential preference primary vote. Where would women have the right now if the Supreme Court followed the reasoning in Plummer vs. Hughes, and in the Czarnecki case, to go to the polls here, we will say immediately after this Constitution is adopted and cast their votes for those offices for which they are not now entitled to vote and which are not provided for by the Constitution of the State? Undoubtedly the legislature would have the absolute right to give them that right to vote for any and all offices, but adopt your Constitution and let the Supreme Court hold that the language "any election" is limited to elections held to fill offices created by the Constitution of the State of Illinois as they have in the past, and then it will take further action by the legislature to give women that right, as I view it.

Mr. CUTTING (Cook). If that be true, then it will require further legislative action to give the suffrage in such cases to men; there can be no distinction between them. If it be construed that this section of the Constitution written now in the language of the original Constitution only gives the right of suffrage to the parties mentioned therein in constitutional offices, it has always been so. How did the men under the old Constitution have the right to vote at all these elections? Was it statutory merely, or was it by virtue of the Constitution? The only question which the Supreme Court decided was that while men had all the rights in every particular, the limitation in that particular to sex was only applied to constitutional offices. The men had the right to vote for all offices, including constitutional and statutory offices; the limitation "male" therefore required that no female could vote for a constitutional officer but that she could, by legislative action, be qualified to vote for statutory officers. Now, since they are both put on the same basis we are forced to the conclusion that they will all vote as men did before for all offices, or else that all parties mentioned in this section must have legislative assistance to vote for legislative offices. It seems that is the reductio ad absurdum of the proposition.

Mr. CORLETT (Will). Why could not women vote for delegates to conventions and participate in a presidential primary at the present time? Neither rests upon any Constitutional qualification or limitation?

Mr. CUTTING (Cook). Being a Yankee, I would like to ask you another question in answering your question: How can men do it, is there any statute allowing them to do it?

Mr. CORLETT (Will). There is.

Mr. CUTTING (Cook). And that statute does not mention women specifically. They cannot vote for those delegates because the Constitution is worded as it is now, but if the Constitution is worded as it will be when this is passed there cannot be the slightest question about it, because the same legislative acts that gives the right to vote to anybody gives the same

right to women; otherwise, your Constitution never did give you any rights to vote except where you were especially authorized by statute, and that certainly is not true; you cannot limit the right when it is once given by the Constitution; when the party does not come within that limitation he may be given the statutory right, and that was the case in the Yost and Czarnecki cases. It seems to me it is perfectly plain. I do not see how there can be any mistake about it. The right of neither men nor women depends on statutory enactments.

Mr. TODD (Peoria). I move that we table this amendment.

Mr. CORLETT (Will). A point of order, it cannot be tabled in Committee of the Whole.

CHAIRMAN CRUDEN. The point of order is well taken.

Mr. McEWEN (Cook). I recognize the logic of these gentlemen who argue that this language if taken upon its face might well be construed as meaning that it would guarantee to both males and females the right to vote on all propositions and all offices, but being somewhat deferential to precedent and to the reasoning that has been followed by courts, especially those who sit in authority, I feel I am bound to take that into consideration, to take that line of decisions into consideration. The old provision of the Constitution said "or who shall be a male citizen of the United States above the age of twenty-one years shall be entitled to vote at such election." What election? The identical election which is described in the section under consideration now, and which election was construed by the Supreme Court to mean not any election, but an election for an office created by the Constitution of 1870. That was the construction which they gave, and all subsequent enactments creating offices were construed to mean male voters, even though they were not so expressed. Then when the legislature undertook to give women the right to vote in school matters, and later in all matters not mentioned by the Constitution, the Supreme Court laid down the decision and adhered to it over a period of thirty years, consistently and at all times, that the Constitution did not cover offices created by statute and said that it was within the power of the legislature to give women the right to vote for those offices. Now, we have used the identical language of the Constitution of 1870. It is true we have omitted the word "male;" will not the Supreme Court say in adhering to the case of Plummer vs. Yost and People vs. Czarnecki, and I think there are other cases, say, "we have already construed that language of the Constitution only applies to offices created or mentioned in the Constiution," and if they do say that will not they say that the field of authority and limitation as to sex in the matter of elections is entirely open to the legislature? Granting you, if they did not mention it, it would be construed in the light of the section of the Constitution to apply to male and female, but suppose they created an office and said male citizens shall vote for this office, would not the Constitution of 1870 and a consideration of the language in that section justify the conclusion that the legislature had the power to make that distinction, as the previous legislatures had the power to make the distinction based on the language of 1870?

Mr. WALL (Pulaski). Now, the present Constitution is an instrument under which franchise is granted. It is not for the legislature but for the Constitution. This Constitution under section 1 uses the same language that this proposal uses with reference to any election and such election; this Constitution that is now operative in Illinois gives to all male electors the right to vote in any election held in the State or any subdivision thereof, whether that election is for election to constitutional offices or whether it is upon matters that are not mentioned or enumerated in the Constitution. Therefore, as to the male citizen it is universal, unqualified and unlimited suffrage given to them by the Constitution. Now, the Supreme Court comes along and says when women want to vote in certain elections that they may also vote for offices and upon public questions that are not constitutional matters; it extends that privilege to women. Now, under this proposal the word "male" is eliminated; the words "any election" and that is as far as any Constitution could go, which means an election whether for

constitutional offices or any election of the State, it provides that citizens may vote at such election; it seems to me that the language is clear and unequivocal and this amendment ought not to prevail. It does not matter what the legislature may do in the future with reference to a discrimination between sexes because it gives to women the same identical right, speaking purely from a constitutional standpoint, that it does to men, and if the legislature sees fit to discriminate, it will discriminate equally as against men and women for offices, not constitutional, but the Constitution itself gives each one of them, each sex, an equal and exact opportunity to vote at any and all elections for any and all offices. In other words, it simply puts women on a par with men under the proposal here and the holdings of the Supreme Court in the past with reference to granting this privilege to women would become unnecessary because they are clothed with the same constitutional power that men are.

Mr. BRENHOLT (Madison). Question on the motion.

CHAIRMAN CRUDEN. The motion before the House is the amendment offered by Delegate McEwen from Cook county. Will the Secretary please read it so we may fully understand it?

(Read by Secretary.)

(Amendment lost.)

Mr. TRAEGER (Cook). I move the adoption of Section 1.

Mr. BRANDON (Kane). Before we vote on it, I am having difficulty in my dense mind with the last line; I would like to ask the committee if there is some special reason why it seeks to limit the appreciation of the United States Government for services rendered? As I get it, it provides that five year residence is an essential to citizenship unless the United States Government sees fit to grant citizenship for a less time because of military or naval services. It occurs to me that the United States Government might conceive in the course of the years of a service rendered to this nation by an alien which is as valuable to the nation as military or naval service, and might provide that citizenship might be acquired in a lesser period because of that particular service, and we would then be in the position of denying a citizen of the United States a vote if it had been given in appreciation of some service other than military or naval. My point is, has the committee some good reason for the elimination of those two broad questions of patriotic service? Might I have the answer of the committee whether there is any good reason?

CHAIRMAN CRUDEN. We had that under consideration, and Delegate Six (Pike) spoke a good deal about that. The language of the section was provided on account of some amendment to the Federal naturalization laws of May 9, 1918, and in speaking with the men connected with the Federal Naturalization Bureau in Chicago they thought there would be considerable opposition from men of the military and naval forces if this provision was not included. We had thought of leaving it off entirely.

Mr. TRAEGER (Cook). That was discussed; they seemed to believe that where an alien was ready to fight for the cause of our American country and willing to sacrifice his life, that a chance ought to be there that if the Government of the United States saw fit to reward him that they might be in the position to do so, simply for the reason of the service he had rendered to the United States Government; that is the only thing that was discussed at the time, as I recall it now.

Mr. BRANDON (Kane). Isn't it true that this Convention is asked to practically declare a policy that in its judgment the United States Government could not reward an alien for services rendered to the Federal government with the reward of citizenship unless they are along military or naval lines, and we are practically asked to determine that the Federal Government should never give the reward of citizenship to an alien for any services unless it be military or naval. If this Convention understands in adopting this section it is adopting that policy, it is perfectly satisfactory to me. It seems to me that that is a pretty big policy to be adopted without some consideration.

CHAIRMAN CRUDEN. I will say for the benefit of the delegate from Kane that this provision is in harmony with the present laws of the United States Government. The question is on the adoption of the motion of Delegate Traeger.

Mr. MOORE (Macon). I would like to say in connection with the granting of citizenship for service in the army and navy, unless a statute has been very recently adopted by the Federal Courts, that in granting citizenship to aliens, they have simply allowed the alien to count the time that he served in the army and navy in his five years. That is to say, that the time of naturalization of a soldier or sailor has never been diminished, but he has been allowed to count the time in the service in putting in his declaration. That is all the United States Government has done. It has never shortened the time of the sailor or soldier in becoming a citizen of the United States.

Mr. CARLSTROM (Mercer). I beg leave to differ with the gentleman from Macon (Mr. Moore). In the late war there was an absolute provision made for the granting of full rights of citizenship to those men who had their first papers and went into the service of the United States Government in the military or naval service, and they were granted the full right of citizenship. I personally want to register myself in favor of that sort of proposition. Any man, whether in the military or naval service of the United States, who shows his regard for the government of the United States to the extent that he is willing to offer himself in its defense is worthy of citizenship, and I believe that provision should be in this Constitution as it is reported by the committee. (Applause.)

Mr. BRANDON (Kane). I know that the Convention, in what I say in the motion I am going to make, understands that I would not in any way disparage the services rendered in a military or naval way, but I can conceive in the years to come there may be an opportunity for an alien to render services to the Federal Government which might not be specifically described as military or naval service, and it might be a service that would be of just as much value to the nation, as great in personal sacrifice and in danger as war service, and I cannot see why the State of Illinois should adopt a policy restricting the Federal Government from the appreciating with citizenship of services rendered by an alien. I therefore move you to get it before the Convention and committee to see how we feel about the policy, that we strike out the words "in the military or naval forces" and substitute the words "services to the United States," so that the last line will read "by reason of services to the United States."

Mr. CARLSTROM (Mercer). I just want to add a word about that. I was stationed at the headquarters of the advance section of the American Expeditionary Forces at Neuve Chateau in France, and I saw the distinguished service medal awarded to a Colonel of a Quartermaster Corps of the United States Army because he promoted the social relations between the American Army and French people by holding a number of balls, and I do not believe in granting citizenship to men who under such circumstances might be held to have rendered a service valuable to the government. I believe, Mr. Chairman and gentlemen, that a man who renders real service to his government in time of emergency will be connected with the active military or naval forces of the United States, and I do not believe in granting distinguished service medals to a man simply because he goes down and tips the mayor of some French city or a city in any of the foreign countries while our forces may be there. I believe this is as broad as it ought to be.

CHAIRMAN CRUDEN. I think Mr. Brandon does not get the proper viewpoint of this section. It does not interfere with the United States Government in granting citizenship to anybody; it only prohibits them from voting in Illinois until they have had five years residence in the United States.

Mr. BRANDON (Kane). But the answer that has just been made to my motion makes me understand differently, that there is an issue here. The report of this committee puts this Convention on record as saying, if adopted, that the Constitution of the State of Illinois will say to the Federal

Government that it may not reward an alien for distinguished services to the people of this nation with the reward of citizenship unless that service is along the specific lines of military and naval service. As I said a moment ago, I know the gentlemen of this committee know, in making this point, I have no thought of the disparagement of that service, but under the amendment I propose the reward may go just as freely for military and naval services as it would under the wording brought in by the committee, and I do not believe that this Convention wants to presume to tell the United States Government what it may reward its people for, and it does not want to impose a barrier between the Federal Government rewarding an alien resident in this State for some great distinguished service to the Federal Government that may not happen to fall into the court's interpretation of what is military or naval service. If this committee will vote for the amendment proposed it will embody everything that is in the present report, and will leave the Federal Government free to exercise its judgment as to what services is worthy of reward.

Mr. SUTHERLAND (Cook). It seems to me that the purpose of this provision is really to harmonize the Constitution of Illinois with the recent provision as to citizenship under Acts of Congress. It seems to me that if that is the case that possibly a little different language might be used which will meet the views of the delegate from Kane as well as the other delegates. Therefore, Mr. Chairman, I move that we adopt as a substitute for the amendment offered by the gentleman from Kane (Mr. Brandon) the following amendment: Strike out all after the word "years" in line eight, section 1, and substitute therefore the following, "In accordance with the laws of the United States," so that the last sentence will read as follows, "no person, however, shall be entitled to vote who has not been a resident of the United States for five years, unless he or she shall have acquired citizenship within less than five years in accordance with the laws of the United States."

Mr. BRANDON (Kane). I would like to withdraw my amendment and accept the one of the gentleman from Cook (Southerland).

Mr. TRAUTMANN (St. Clair). In connection with the amendment offered by the delegate from Cook (Sutherland) I would like to ask the delegate from Mercer (Carlstrom) a question: If this amendment is adopted, it would allow any person to vote in Illinois who had acquired his citizenship according to the laws of the United States. Would it not allow women in Illinois to vote who had not lived five years in the United States, simply because they married a United States citizen and came here?

Mr. CARLSTROM (Mercer). I think so.

Mr. TRAUTMANN (St. Clair). I do not think that is a sufficient service to entitle her to that privilege. (Laughter.)

Mr. TRAEGER (Cook). Another reason is, it was in the Constitution of 1870. I do not believe within the last fifty years that that has been abused in any way. As an American born citizen I say to you I believe we should not make this so broad that every alien might become a citizen of the United States. The question might arise, who is going to say whether he is going to be a citizen of the United States, but I do believe that when an alien comes over here and enlists and fights for the cause of this, his adopted country, that our Government and State ought to be in a position to grant him some reward for that service. Therefore, I ask for a vote on the original amendment.

Mr. PINCUS (Cook). A man may be a citizen for twenty years and still come to Illinois and be unable to vote. We are not telling the United States who shall be a citizen, but we are providing who shall and shall not be entitled to vote in Illinois.

CHAIRMAN CRUDEN. That is my understanding.

Mr. CARLSTROM (Mercer). I think we are voting directly on the motion of the delegate from Cook (Sutherland), inasmuch as the delegate from Kane (Brandon), has withdrawn his amendment.

CHAIRMAN CRUDEN. Yes.

(Amendment lost.)

CHAIRMAN CRUDEN. The motion is on the original amendment.

Mr. HAMILL (Cook). May I ask of the committee for information whether the words in line six, "shall be entitled to vote," mean or are intended to mean anything different from the words in line five, "qualified electors," and if not, why two different expressions are used for the same meaning. Do I make myself clear? In line five, the part of the first sentence of the paragraph, the words "qualified electors" are used, and in line six the words "entitled to vote" are used. Are they intended to mean the same thing, and if so, what is the advantage of using two different expressions for the same meaning?

CHAIRMAN CRUDEN. I do not know that I could answer that. The provision was made there in connection with the proposal presented by Delegate Lohman, to prohibit a woman, who had come from other countries and who had married a citizen, voting in Illinois until she had been in the United States five years. That was the reason for that provision of the section.

Mr. HAMILL (Cook). I assume from what you say it was the intention of the committee to mean the same thing by the two expressions.

CHAIRMAN CRUDEN. Yes. The question is now on the original motion by Delegate Traeger for the adoption of section one as part of the new Constitution.

Mr. SNEED (Williamson). As I understand the matter before the House at this time, it is voting on section one of this article. Is that correct?

CHAIRMAN CRUDEN. Yes.

Mr. SNEED (Williamson). If an amendment is in order, I would like to offer this amendment for the consideration of the Committee of the Whole; to begin after the word in section one, the last word "unless," unless "such citizens who have complied with this section exercise their right of franchise or are hindered by legal excuse shall not have the right to vote for a period of two years."

CHAIRMAN CRUDEN. That question was discussed; it is a matter of compulsory voting and it was not included.

Mr. SNEED (Williamson). Is it included further along in your report?

CHAIRMAN CRUDEN. No, sir.

Mr. LINDLY (Bond). Point of order; that would not prevent the delegate from offering the amendment.

CHAIRMAN CRUDEN. No.

Mr. SNEED (Williamson). My idea of this matter is this: The sooner the citizens of the United States are forced to recognize and exercise their right of franchise, the sooner the citizens of our country are going to wake up to the issues that are concerning us as a Nation. Many of us know that there are thousands of people, not only in the State of Illinois, but in the United States as well, who are always complaining and harping about the issues that confront us as a Nation and the questions which are before us as a State from time to time, but who never go to the polls to exercise their right as citizens. I feel, gentlemen, if this Convention would compel in our constiutional law our citizens to exercise their right of franchise in the questions that appear from time to time, that that in itself in a large measure is going to wipe out a lot of this unrest. It is going to force the voters of our State to acquaint themselves with the facts that present themselves to us from time to time in a manner that will create a greater sense of responsibility and a greater duty toward our government as a State. It seems to me that the objection to forcing a citizen to exercise his right of franchise is not a serious one in this respect. I may be wrong in my opinion relative to this matter, but it strikes me that every man who pays taxes and every man who says he is a citizen of a state of the United States should be compelled to exercise his right of franchise in the matters which affect us from time to time.

Mr. DRYER (Montgomery). On that amendment, I want to say that I have some decided feelings, and I introduced before the committee a pro-

posal similar to the amendment offered by the delegate from Williamson (Sneed). Covering a period of some twenty-one years I have come to the conclusion that there ought to be something in the Constitution, or some power given to the legislature, to compel people who have the right of suffrage to exercise it, or it should be taken away. I do not believe there is anything that would do away with the corruption in politics more quickly than that everybody should exercise the right of suffrage and vote without being solicited and without money being spent to get out a vote, on important elections. I have had a very recent experience of that kind, and I presume many of the delegates have, just last Tuesday, and it seems to me that while it may not be well to write into this Constitution that the legislature shall pass an act to make voting compulsory, that it might be well to say that the legislature shall have the power to pass such an act at such a time as it shall see fit so to do, and in my judgment it would be conducive to the elimination of much more corruption and the spending of money in the getting out of votes, which is just another word for corruption.

CHAIRMAN CRUDEN. I want to say this in the absence of Delegate Todd who has give this considerable thought before the Committee and spoke on it. He was to speak on this question here, because we anticipated some suggestion of this kind on account of the numerous proposals along this line. Considerable inquiry was made, and it was the consensus of opinion there, that this was one of the essential features of political freedom, that a man might vote or withhold his vote as he saw fit, and that the experience in other countries that had adopted compulsory voting was that the people went to the polls and in secret vote cast blank ballots, which was not very satisfactory, and therefore we thought we would leave that feature out.

Mr. LINDLY (Bond). I am in favor of the proposition that has been offered here as an amendment, but I think this is the wrong place for that amendment. I think that amendment should come before the legislative committee giving the legislature power to pass such a law, and I do not believe it ought to be embodied in this section of the Constitution. I favor a proposition of that kind, but I think it should go to the legislative committee and not be attached to this section of the Constitution.

Mr. DOVE (Shelby). As I read the amendment that has been offered, it is, that adding to section one at the end of line eight after the word "unless," "unless such citizens who have complied with this section exercise their right of franchise or are hindered by a legal excuse shall not have the right to vote for a period of two years."

Mr. WALL (Pulaski). I think that it ought to go into the Constitution, and while this particular section may not be the proper place for it, I think that amendment put in the proper form in this Constitution will get this Constitution two hundred thousand votes in the election.

Mr. DOVE (Shelby). I quite agree with what some of the delegates have said relative to the place for this amendment. It occurred to me that possibly such an amendment could be made to section seven of this article, but since it has been brought out, I would like to offer as a substitute, for the amendment that has been offered the following: "The General Assembly shall pass laws punishing wilful and deliberate failure on the part of any elector to register and vote at every election." The purpose of course, gentlemen, is to enable the legislature to pass suitable laws punishing willful and deliberate failure upon the part of any elector to vote. Early in the session I offered a proposition to this effect, Proposal No. 204, which was rejected by the Committee on Suffrage. It seems to me that it cannot be disputed that upon the intelligent use of the ballot rests our entire structure of government; it seems to me that this will be a means whereby the electorate of the State of Illinois will become active, and it is the active citizenship of the State that determines its policy, and we have all seen frequently the rule of the minority and the fact that a very few determine who our officers shall be, and we seldom if ever get the complete expression of the will of the people upon any public policy that is submitted to them. It would be the purpose of the laws that would be passed in pursuance of this command in the Constitution that I believe would rectify these defects.

It has been said that no state has a compulsory voting law. I think that is true. However, in Massachusetts the Constitutional Convention in that state very recently adopted a provision authorizing the legislature to pass compulsory voting laws. Nothing however has been done in that state in obedience to that direction. North Dakota has a constitutional provision which provided that the legislature may prescribe penalties for failure, neglect or refusal to vote at any general election. The General Assembly, however, of that state has done nothing in obedience to the permission granted them in the Constitution. A number of foreign countries, however, do have compulsory voting laws, and I do not know whether it is safe in this Constitutional Convention to cite what they do in Switzerland, Belgium, Tasmania or New Zealand or not, but I do have here one of the bulletins prepared for the Massachusetts Constitutional Convention, and with the permission of the Committee I would like to read briefly what this authority has to say with reference to compulsory voting: "It is charged, of course, that while you can compel the electors to go to the polls, you cannot compel them to vote." That is true. There is no way of making the horse drink after you bring him to the trough, but he must go in there and deposit some kind of a ballot, and if he has enough intelligence and desire to mark that ballot, well and good; however, that question is not under discussion here. I believe it is charged that in Switzerland perhaps as much as ten per cent of the ballots are blank ballots, but what difference does that make if they get an expression of ninety per cent of the electorate of the various cantons of that country. In this bulletin prepared for the Massachusetts Constitutional Convention, and which appears in volume 23 of the bulletin of that Convention, and commencing on page 231, it speaks of compulsory voting in Austria first, and then goes to Belgium, and at great length it sets out an article prepared for the Massachusetts Constitutional Convention by Professor Leon Duprez of the University of Louvain, and the editor of this bulletin has this to say with reference to who he is: "Professor Leon Duprez, of the University of Louvain, whose thorough study of the subject of compulsory voting has been widely recognized, has prepared for this bulletin the following statement concerning the experiences of Belgium," and then quoting from his article:

"The compulsory vote was introduced into the Belgian Constitution at the same time as universal plural suffrage in 1893. The question of the compulsory vote had never been seriously discussed in Belgium before it was submitted to the Constituent Chambers in 1892 by the Prime Minister, M. Beernaert. It was first received with astonishment; but it very quickly won favor with all parties and was finally adopted without opposition.

"The argument which won over the leaders of Belgian public opinion is as follows, suffrage is not on individual right of the citizen which he can use and abuse as his personal and particular interests dictate; it is rather a function and a duty which is entrusted to him in order to insure the good government and the general interests of the nation. Every free government rests on the national will as expressed by the electorate. But this national will, which alone ought to make the law and control the government, will never be expressed or known if the voters neglect to go to the polls. Too much neglect of this duty will not only hinder the expression of this will, but will render it uncertain and doubtful and even falsify it by displacing the true majority.

"Belgium has, by law, organized the means for enforcing compulsory voting in a way that is very simple and not at all severe. After the closing of the polls the presiding officer of each polling place draws up and sends to a justice of the peace a list of the electors who have not voted. In the following week every elector who did not cast his vote can send the justice of the peace a letter setting forth the reasons which justified his absence and the means of proving them, such as a medical certificate. The law itself has not determined what are the legitimate cause for failing to vote; it has left to the justice of the peace the duty of deciding in each particular case whether the excuse presented by the elector is a valid one, and if so, the elector is not prosecuted. If the excuse is not accepted, he receives a summons by mail, ordering him to appear before the justice of the peace, and

after his explanations have been heard the case is decided by the justice without appeal. The penalties which the justice can pronounce are light. The first offense is punishable either by a reprimand or by a fine of from one to three francs (twenty to sixty cents). A second absence within six years is punishable by a fine of from three to twenty francs (sixty cents to four dollars). The third offense within ten years is punishable by the same fine and the name of the offender is posted on the walls of the City Hall for one month. Finally, the elector who fails to vote for the fourth time within fifteen years without good cause is dropped from the electoral lists for a period of ten years and during this time cannot receive any nomination, decoration or mark of honor from the public authorities.

"Compulsory voting in Belgium has been very successful. During the last twenty years the number of registered electors who have failed to vote has never been over six per cent, and has even been less than four per cent. But it must be noted that the voters' lists are made up in Belgium on the first of July and that the elections do not occur until the first of the following June. During these months some electors die, some leave Belgium, and some lose the right to vote either because of conviction of crime or because of some other disability. These causes are sufficient to explain at least a third of the failures to vote. Another important cause of absence from the polls is the custom of many peasants of the Flemish provinces to go to France temporarily to gather the harvest; there are a large number of *arrondissements* from which this emigration takes place where the number of absentees rises to ten and twelve per cent. The other causes of failure to vote are most common and recognized as legitimate are extreme old age, sickness, and absence from the country. The elector who has changed his residence since the last revision of the voters' lists must return to his former residence to vote, but he receives free transportation both ways on the government-owned railroads.

"Indeed, cases of intentional and illegal absence are exceedingly rare; the statistics show that out of a thousand electors only six are prosecuted and less than three are convicted.

"Clearly it is not the fear of possible punishment which makes so large a number of Belgians vote. On the contrary, the Belgian people are not accustomed to submit silently to a rigorous discipline; they are used to enjoying the fullest amount of liberty and are by nature very dependent and even inclined to find fault with all public authority. How then are we to explain the success of compulsory voting? Primarily because the compulsory vote was imposed at the same time that the right of suffrage was first granted to the people as a whole. They had struggled energetically to gain the right to vote, with which they hoped to improve condition. With the same enthusiasm they accepted the right and duty of exercising this function. Since in Belgium political contests are extraordinarily keen and exciting, and as they touch the most profound emotions of the human heart and the deepest feelings, he who is not interested is not in any sense a citizen, and to the majority these contests are of vital importance. Moreover, the Belgian people have always been divided into two parties or groups or parties almost equal, so that at each election the fate of the parliamentary majority and the government is at state and depends on the votes of small bodies of electors; accordingly each man feels the great importance of his vote. Finally, the introduction of proportional representation in 1900 has helped to maintain and to increase still more this remarkable proportion of electors who vote. Thanks to proportional representation, every Belgian voter has the opportunity to vote for the men of his own party who represent his desires and his interests, with the hope, even with the certainty, that some candidates of his choice will be elected."

In addition to this article on compulsory voting in Belgium this bulletin continues and speaks of the manner in which compulsory voting has succeeded in Spain, Switzerland, New Zealand and in Tasmania. In Switzerland, if I am permitted to read for a moment further, let's see how compulsory voting works there.

"Voting is obligatory on cantonal matters in the Cantons Zurich, Schaffhausen, St. Gallen, Argau and Thurgau. These Cantons show average votes of from 70 to 80 per cent; but the obligatory measure is not rigorously enforced. Small fines are imposed upon people failing to vote unless an adequate excuse is made. This includes illness in the family, mourning for a relative, absence, birth in the family, etc. St. Gallen goes further than its neighbors and excuses the parent and god-parent from the duty of voting if their presence is necessary at a christening. Those who have "official business" to attend to are also excused. In Thurgau forestry officials in service and clergymen who intend to preach on election day are not required to vote unless they desire. Elections are usually held on Sundays, and sometimes the polls are open Saturday nights for a couple of hours."

Mr. BRENHOLT (Madison). How many offices are they voting on, how many elections do they have?

Mr. DOVE (Shelby). I do not know.

Mr. BRENHOLT (Madison). In any of the countries?

Mr. DOVE (Shelby). I rather think in Belgium they have only one election a year. In speaking of the referendum, he says:

"In comparing the vote on referendum measures in the two cantons of Zurich and Berne, it will be found that the proportion of electors taking part in such elections is much larger in Zurich. President Lowell ascribes this difference to the fact that in Zurich an elector who fails to vote is fined."

So much for that. Let me now read a clipping from a paper, and I suppose this authority will be received by this Convention; it is a statement made by General Wood in an address just a few days ago, and in speaking of the necessity for the individual to take serious his duty of exercising his right to vote, he says:

"We have been too indifferent about these things. We have let somebody else do it, and the day has come when it is absolutely necessary for the people of this representative government of ours, the people of this republic to vote. I feel that sometimes we ought to have conditions such as they used to have in Belgium, where a man who did not vote had to submit an official statement as to the reason for failure to vote. In other words, the franchise is not only a privilege, but it is an obligation, and we ought to all see to it that it is exercised."

Two groups of citizens will be reached by this compulsory voting. The first is that so-called middle class of citizens, who I believe comprise the bone and sinew of our country, and who are indifferent to their duties and to their obligations as citizens, and if we had compulsory voting it would result in making those men, who are the very best class of citizens, take an interest in questions that are to be submitted to them, and take an interest in the candidacies of the various offices to be filled. The other group are the foreigners who come to our shores and to whom I believe we have been neglectful of a duty in instructing them along the lines of our government as to why they should take an active part in the affairs of our government. I was intensely interested in the statement made by Mr. Streyckmans the other night at the hearing here, with reference to his work among the foreign born citizens of the Seventh Reserve District in the Third, Fourth and Fifth Liberty Loan Campaign. He did wonderful work which was largely educational and instructive, and he told me afterwards that he favored compulsory voting, that it would be the means of not only educating those who are not native born, but it would likewise result in bringing the government and the people close to those who assume to exercise not only a duty, I think, but an obligation. We pay taxes. Our school system is compulsory. Does any one think for a moment it should be dispensed with? There is no reason to my mind why voting should not be considered not only a privilege but a duty and an obligation commensurate with the paying of taxes in the support of our government, or the education of our youths, and for that reason I submit—while I have no pride of opinion as to the exact wording that this amendment should take or what section in the Constitution it should be found in, I simply submit that the substitute I have offered covers the ground, and for that reason I move its adoption.

Mr. CORCORAN (Cook). From practical experience, I do not believe either one of these amendments are workable. In the last amendment the gentleman says, "wilful and deliberate;" that would be very hard to prove. The first one simply gives a man, after he fails to exercise his franchise, a further privilege of two years. That is his punishment. He can fail to exercise it for two years more, and a man who will not take an interest in his community, in the spending of his own taxes, to give him a little slap on the wrist by telling him he can have two years more when he shall not be required to vote, I do not believe will do any good,

Mr. GALE (Knox). It seems to me these two proposals offered here as substitutes present two of the most difficult things that are before us as a Convention. The proposal offered by the member from Williamson county (Mr. Sneed) uses the term "without a legal excuse." Who is going to decide what is a legal excuse? Who is going to say how the record shall be kept and to provide that a man shall be deprived of the right to vote? How shall the steps be taken to declare that John Smith, for instance, cannot vote for two years? It indicates the necessity of legislative action, and we in this Constitution shall not go into legislation, but shall deal only with fundamentals, has been repeatedly stated upon this floor. The substitute motion offered by the delegate from Shelby (Mr. Dove) would seek to obviate that objection, but Mr. Chairman, that substitute is a direction or permission to the legislature. That direction or permission, as is the case with all directory provisions in the Constitution, cannot be enforced if the legislature does not see fit to pass any such laws, and there we come to the other difficulty which concerns this Convention, not only upon this proposal but upon every proposition that will be before us. A limitation upon the legislature is self enforciable; directory and mandatory provisions are practically worthless in the Constitution as the experience of Massachusetts has shown.

Now, Mr. Chairman, I am in favor of some form of compulsory voting. It has got to be put into this Constitution, but we have got to avoid legislative action in the Constitution. It seems to me, therefore, Mr. Chairman, that this matter is of such importance that it ought to be considered carefully, and the proposals carefully prepared that are presented to this Constitution, which will meet the objections of both of these substitute provisions, and, Mr. Chairman, neither of these provisions should come in as an amendment to section one. Section one, defining suffrage and the right to be an elector, should stand by itself. I wish to suggest, Mr. Chairman, since it is impossible to finish this suffrage proposition today, that time be taken by the delegates from Shelby and Williamson, both of whom have ideas which I am sure appeal to the majority of the Convention, to study that matter carefully and to prepare a separate section to this suffrage article to be presented at this time this matter is taken up again by this Convention. I am heartily in favor of this compulsory voting, but for the reasons indicated I am opposed to it and shall have to vote against both of these substitutes as now offered.

Mr. DUPUY (Cook). I would like to say a few words on this proposition. I am very heartily in favor of a system of compulsory voting; I am not in favor of either one of these amendments. I am not in favor of rewarding the delinquent voter by relieveing him of the privilege or burden of voting. I believe, however, that a system of compulsory voting properly guarded, put into effect in the proper form, would be one of the most valuable things this Convention could propose to the the people of the State of Illinois. I have thought about this for a good many weeks and I am of the opinion that if some step could be taken whereby the State of Illinois could have the benefit at every election of the vote of all the people of the State it would be the best thing that could possibly be done in the public's interest.

There are a number of gentlemen in this Convention that are not very kindly disposed to the Initiative and Referendum, as will doubtless appear a little later when that question comes up for vote in this Convention, and it is my feeling, if we have compulsory voting whereby we could take the judgment of all the people of the State as each question comes up from time to time, that we would have very little concern about the Initiative and

Referendum. My own lack of kindly feeling would disappear. I believe we can trust the people of the State of Illinois at all times. We hear that continually put before us. "Are you afraid to trust the people?" Those who do not believe in the Initiative and Referendum are meeting with this objection from time to time. We do believe in the judgment of the people. The main thing that is necessary to be done is to get the judgment of the people on all questions that come up from time to time for the action of the electorate of the people of this State.

I have spent evenings, as the chairman knows, with the sub-committee of this committee, trying to devise some scheme we thought was practicable and would meet with general public favor that could be put into operation, and the only thing that bothers me now, that gives me trouble, is to find a practicable method of getting these results. I do not believe that either one of the amendments that have been offered here are proper, because I think it will be a step in the wrong direction to relieve men of the duty of voting if they fail to vote. It is putting a reward on demerit instead of merit, but I believe a compulsory system of voting would have many salutary effects. In the first place, it would stop the enormous costs of election. A great deal of money is spent in every election to get the voters to come out to vote. It is a very heavy burden upon the men who aspire to public office, and with our popular primary system it has become such a heavy burden that for many offices men not prepared to spend a great deal of money are not willing to become candidates. It would do away with political corruption. In my opinion an appeal could be made to the people of the State of Illinois that would induce them to adopt this very salutary and splendid method of getting the judgment of the people of the State. We heard a great deal about saving the country in time of war. It was said that a million men would spring to arms over night to defend the country against foreign aggression. We did not see that. We had to pass a law, but when that law was passed, mark you, how few difficulties there were. Men came up voluntarily. and without trouble registered their names for military service; they were inducted into the army and they went away and did their duty well. It is quite as important that the country should be properly taken care of in time of peace as that it should be saved in time of war. It is quite as important we should have wise laws properly administered and that the civic affairs of government should be taken care of in the best possible manner in times of peace, as to safeguard the country in time of war, and that can only be done by the largest possible number of people getting out and voting on all policies and questions that come up from time to time and for all public offices.

I am not prepared to say whether this should go into the Constitution or not. I do not think you will ever get it from the legislature, because it is an innovation, something new, something they will be afraid of. We have no means of knowing how the people will feel in regard to it, and I would be willing to put it in a separate clause or section of the Constitution to be voted on separately by the people rather than in the Constitution itself, if that is thought to be the wise thing to do, but of the beneficient result of a compulsory system of voting, I think there can be no doubt.

Mr. HAMILL (Cook). It seems to me that the subject now under discussion is one of considerable importance and should be continued at a time when we can give it all the hours and time required. It is now half-past twelve. If I understand rightly, at a meeting of the Chairman of the Committees with the members of the Committee on Rules and Procedure yesterday there was tentatively outlined the program of sitting in Committee of the Whole this morning and going on with committee meetings this afternoon, and resuming the discussion of the suffrage article before the Committee of the Whole tomorrow morning. It seems to me that plan will be wisely pursued. I therefore move you, Mr. Chairman, that the Committee do now rise, report progress and ask leave to sit again.

Mr. SUTHERLAND (Cook). I desire to offer an amendment to the motion. I move that the motion be amended so that it will say that the

Committee rises, reports progress and asks leave to sit again tomorrow morning immediately after the order of the business or general orders.

Mr. HAMILL (Cook). I accept the amendment.

(Motion carried.)

(President Woodward Presiding.)

Mr. CRUDEN (Cook). Mr. President, the Committee of the Whole having under consideration Proposal 351 desires to report progress and asks leave to sit again.

(Report adopted.)

Mr. TRAUTMANN (St. Clair). I undersand that the Committee of the Whole asks the privilege of sitting tomorrow morning at ten o'clock. If this is done I want to rise to a question of personal privilege on this proposition, and it is that I am subpoenaed as a witness in the United States Court tomorrow morning at East St. Louis, and I feel I should go there, and if I am absent and this matter is continued and you reach section eight I will ask that it go over until such time as I may be here. At the rate of progress you are now making you won't reach section eight for a week or so, but if you do reach it tomorrow morning I ask that I be permitted to be excused from the session in order that I may be in attendance in the United States Court.

Mr. KERRICK (McLean). I regret to say that my colleague and I cannot be here tomorrow morning because of the funeral of a personal friend, and a very prominent citizen of our district. I believe that this matter is of such importance that we should have the benefit of a full deliberation of all the members in its consideration. Now, it just occurred to me, from what has been said here on the various amendments proposed and hastily prepared, it would be wise for us to go very slowly in this matter, at least slowly enough so we are not likely to make any mistakes by undue haste. Evidently the committee that reported to us what is under discussion here has given very considerable consideration and careful consideration to its report, and it is my belief it is better for us to refer this matter back to the committee from whence it came—it is an intelligent committee; it has been considerably helped by what has been said here in regard to what it should do concerning this proposition, and I would be in favor of having this matter re-referred to the Committee on Suffrage. I believe the committee which originally had charge of this matter has given more thought to it than any members have, and that the matter should be referred back to them for their very earnest and careful consideration of the propositions brought up this morning, and if it is in order I will make that motion now.

Mr. TRAUTMANN (St. Clair). On that motion, just a word. I understand the chairman of the Committee on Suffrage to state they had a proposition of this kind before the Committee and they rejected it, they did not include it in their report and I think it would be useless to refer this back to the Committee on this one subject alone. That was done when the report of the Committee on Military Affairs was being considered, and it seems to me, if we commence to pursue the course of sending these reports back each time, we will not get through, especially on a matter that has been considered and rejected. It seems to me if there are gentlemen who want to discuss this matter further it ought to be taken up next Tuesday morning.

Mr. FIFER (McLean). That will be satisfactory to my colleague and myself.

THE PRESIDENT. Does the delegate from McLean (Mr. Kerrick) insist on the motion?

Mr. KERRICK (McLean). I will withdraw the motion.

Mr. SNEED (Williamson). Tuesday of next week is city election and I am sure that there are delegates who would like to vote in the morning and come to Springfield in the afternoon, if possible.

Mr. O'BRIEN (Cook). I would ask that the Convention pause in its endeavors to pay tribute to the memory of Mr. Roger C. Sullivan, one of Illinois' foremost citizens, who has departed this life. Mr. Sullivan was a potent factor in bringing about the calling of this Convention. I move, Mr. President, that a memorial I have here be presented and spread upon the

records of this Convention, and, out of respect to the memory of Mr. Sullivan, this Convention do now adjourn.

MEMORIAL.

This Convention learns with profound regret of the death of Mr. Roger C. Sullivan.

He was one of the foremost citizens of Illinois. He was intimately identified with the social, financial, business and political life of the State. He attained unusual success as a leader in the financial and business world and in social and philanthropic endeavors his influence was wide and beneficent.

Conspicious not alone in the business and financial world but as well in the political affairs of State and nation, his leadership reached beyond faction or party.

Mr. Sullivan's wholesome influence and energetic labors contributed in large measure to the calling of this Convention. He was a patriot in all that the term implies. He devoted his time and energy during the trying days of the great war to the work of the State Council of Defense of which he was a member and the Secretary. Aided by his tact, skill, judgment and wisdom, the Council of Defense rendered invaluable service to the State and nation.

Financial leader and philanthropic citizen, statesman and patriot, he leaves a record which will not soon be forgotten.

Mindful of his services to the State, cherishing the memory of the lovable qualities of his character, we here record our own sense of loss and of our sympathy with his bereaved family.

Mr. WHITMAN (Boone). I rise to take the time of this Convention just for one moment to pay my hearty tribute of respect to a man, a citizen whom I have known since his early days. Born within a stone's throw of my office, brought up through all of his early life in the school of hard-knocks, I have this to say in regard to Roger Sullivan, and I say it out of the depths of my heart. While we never agreed politically, I have never known a man who was more the soul of honor than our friend who has just passed away. Never have I known him to break his word to friend or foe. He had the attributes of a man, and he has performed the duties of a citizen in such a way as to bring forth our admiration and commendation. To Roger Sullivan, the man and citizen, the patriot, I desire to give this single word of praise and tribute. (Applause.)

Mr. SUTHERLAND (Cook). Mr. Chairman and gentlemen of the Convention. I, too, as a member of opposing political party, desire to pay a tribute to Mr. Roger C. Sullivan. I knew him first when I was a newspaper reporter and I have observed him in his activities in the political and business world for many years. He was a remarkable figure. Risen, as the delegate from Boone has just pointed out, from humble origin, he had the common touch-on one hand with the man who strove by his daily toil to make his living, and on the other with men in high places of society and business, meeting all alike on a common ground of manhood and citizenship. It is remarkable that a man whose early experiences were in the practical political lines many years ago should have arisen to a place where politics touches statesmanship, for he was a statesman, as well as a politician. I came to admire him greatly because his word was given to me and to other newspaper men was always good. In the work of bringing about this Constitutional Convention, the aid he gave, both in the General Assembly when the resolution was adopted and later when the campaign was on for ratification by the people of the resolution adopted by the General Assembly, was invaluable. Without his support I doubt very much whether this Convention would be sitting here today, and it is fitting that we should pay tribute to his memory at this time.

(Memorial adopted by unanimous vote by the Convention.)

THE PRESIDENT. The Convention will stand adjourned until tomorrow morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Friday, April 16, A. D. 1920, at ten o'clock a. m.

FRIDAY, APRIL 16, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Wednesday, April 14, 1920, was placed on the desks of the Delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Wednesday April 14, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

Your Committee on Miscellaneous Subjects, to which was referred Proposals numbered 3 and 220, reports the same back with a substitute therefor, being Proposal No. 357, a proposal relative to the boundaries of the State of Illinois.

And recommends that the original Proposals, above enumerated, be rejected, and that the substitute Proposal No. 357, be placed on the General Orders.

(Signed) MARTIN J. O'BRIEN,
WM. T. HOLLENBECK,
WATTS A. JOHNSON,
HERBERT F. LILL,
GEO. F. LOHMAN,
JAMES H. PADDOCK,
E. B. COOLLEY,
S. E. PINCUS,
RODNEY H. BBANDON,
Committee.

Mr. O'Brien submitted the further report:

Your Committee on Miscellaneous Subjects, to which was referred Proposal No. 5, reports the same back with a substitute therefor, being Proposal No. 358, a Proposal to provide for the separation of the government into three departments.

And recommends that the original Proposal, above enumerated, be rejected, and that the substitute Proposal No. 358, be placed on the General Orders.

(Signed) MARTIN J. O'BRIEN,
GEO. F. LOHMAN,
JAMES H. PADDOCK,
HERBERT F. LILL,
WM. T. HOLLENBECK,
WATTS A. JOHNSON,
E. B. COOLLEY,
S. E. PINCUS,
RODNEY H. BBANDON,
Committee.

THE PRESIDENT. In acordance with the rules, the report of the Committee will lie upon the table and be printed.

Whereupon the Convention further proceeded upon the order of reports of special committees, introduction of proposals, first reading of proposals, second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. On the general orders of the day, of course, was the report of the Committee on Suffrage. As the Chair gathered the sentiment of the Convention on yesterday, the further consideration of that report would be deferred until next Wednesday. The whole matter is now,

of course, within the control of the Convention as to what shall be done with the report which is now on the general orders. What is the further pleasure of the Convention this morning?

Mr. HAMILL (Cook). I move the Convention do now adjourn until next Tuesday.

Mr. WHITMAN (Boone). I have tried to be present in my place every day since the Convention met, and I do not wish to be thought to be trying to delay the business of this Convention, but in relation to this motion to adjourn until Tuesday, I wish to draw the attention of the Convention to the fact that the city elections occur all over the State in the country districts next Tuesday, and I doubt if you will find back here the members from the country districts on that day. If it seems best to adjourn only until Tuesday, I do not wish to oppose the motion, but I feel very sure we will not have a very full attendance until Wednesday morning, and I wish to amend that motion to adjourn until next Wednesday at ten o'clock.

Mr. DUNLAP (Champaign). Point of order. A motion to adjourn is not amendable.

Mr. WHITMAN (Boone). A motion to adjourn is not amendable, but a motion to adjourn until a specific time is amendable under the rules.

THE PRESIDENT. The point of order is not well taken.

Mr. HAMILL (Cook). I will accept the substitute offered by the Delegate from Boone (Mr. Whitman).

Mr. HULL (Cook). I do not know whether it is wise to get into a long discussion on this, but isn't it conceivable that some committees may meet on Tuesday? We could be doing committee work on Tuesday.

Mr. DUNLAP (Champaign). I cannot help but think it is a mistake to adjourn until Wednesday morning. I think the city elections will only effect a small minority of the Convention. Any important matters can go over until Wednesday. I think we are wasting a lot of valuable time. I think the members all ought to have been here today, but the impression has gone out that business would not be done this morning and of course the members having duties at home have left. Now, those of us who have stayed here, have stayed here with the expectation of transacting business, and our time in our opinion at least is as valuable as the business of those who are not here. I think we should have some understanding that we will have a quorum on Friday so that we can transact business, and if it is not possible for some of the members on account of personal duties to be here, that is their misfortune. I think it should be understood we will transact business on the days we are in session, and I protest against any further waste of time. I can concede that some of the members would like to remain at home, thinking their duty was there, but I believe we ought to meet on Tuesday here, and I offer as a substitute for the motion, or the amendment that we meet on Tuesday morning.

Mr. GILBERT (Jefferson). I am one of the unfortunates who have a city election on Tuesday. We heard a great deal on yesterday about compulsory voting, that everybody ought to be required to vote at elections, and the suggestion that we fail to vote next Tuesday is not consistent. I believe that we should be consistent with the talk that we had yesterday and vote next Tuesday.

THE PRESIDENT. This debate is proceeding by unanimous consent, of course.

Mr. WHITMAN (Boone). There are city elections all over the State except in Cook County Tuesday, and it is not a matter of small importance. It is just as important that we attend to our duties as electors in our cities as it was that the Chicago delegates should theirs, and there was no objection whatever when they asked for the privilege. Apparently a great many of them did not attend to their business last Tuesday, but we want to attend to ours.

THE PRESIDENT. We will take a vote on it.

(Substitute motion lost.)

THE PRESIDENT. The ayes have it and we will adjourn until Wednesday morning at ten o'clock.

Whereupon an adjournment was taken by the Convention to Wednesday, April 21, A. D. 1920, at ten o'clock a. m.

WEDNESDAY, APRIL 21, 1920.

10:00 o'Clock A. M.

The Convention met pursuant to adjournment.

The President in the Chair.

Prayer by the Chaplain, the Reverend William E. Barton, Pastor First Congregational Church, Oak Park, Illinois.

THE PRESIDENT. The Journal of Thursday, April 15, 1920, was placed on the desks of the delegates at the last session of the Convention held on Friday last, and is now subject to correction. There being no corrections proposed the Journal of Thursday, April 15, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees, reports of select committees, introduction of proposals, first and second reading of proposals, motions and resolutions, unfinished business and general orders of the day.

THE PRESIDENT. Under general orders of the day stands the report of the Committee on Suffrage. The Convention, I think, is now ready to proceed with the further hearing of the report of that committee. For that purpose the Convention will resolve itself into the Committee of the Whole. As chairman of the Committee of the Whole the Chair designates Delegate Cruden, chairman of the Committee on Suffrage. (Applause.)

(Chairman Cruden presiding.)

CHAIRMAN CRUDEN. The committee will please be in order. The Secretary will now read the minutes of the last meeting as we finished Thursday.

(Secretary reads the minutes as requested.)

CHAIRMAN CRUDEN. Gentlemen, the action now is upon the substitute motion of Delegate Dove from Shelby county.

Mr. DOVE (Shelby). It has occurred to me since the adjournment last week that probably this is not the proper place for this section to be inserted in the suffrage article. Therefore, with the leave of the committee, I would like to withdraw my substitute at this time, intending however, to offer it before this suffrage article is finally disposed of.

(Amendment withdrawn.)

CHAIRMAN CRUDEN. The question now is upon the amendment offered by Delegate Sneed of Williamson county.

Mr. SNEED (Williamson). I desire to withdraw my amendment.

(Amendment withdrawn.)

Mr. TRAEGER (Cook). I renew my motion of last Wednesday, the adoption of Section One as read.

(Motion carried.)

CHAIRMAN CRUDEN. The Secretary will please read Section Two.

(Section Two read by the Secretary.)

Mr. TRAEGER (Cook). I move its adoption, Mr. Chairman.

Mr. JARMAN (Schuyler). I offer the following amendment, and move its adoption: Add after the word "ballot" in Section Two the following, "or by such other method as shall be prescribed by law, provided that secrecy in voting be preserved." There has always been some question in this State about the constitutionality of the provision that prevails in some States and was attempted in this State by voting by machine. Notwithstanding the Supreme Court has upheld that provision of the Statute as constitutional there has always been some doubt about it, and furthermore there is considerable doubt about the right of the legislature to pass laws

with reference to absentee voting. The last legislature passed such a law, and the Attorney General in a written opinion said he was very much in doubt as to whether or not such a law was constitutional. This is perhaps only one amendment, but I think it is proper to cover a future contingency in reference to changing the vote by absentee ballot.

Mr. HAMILL (Cook). May I ask the delegate from Schuyler (Jarman) whether in his opinion the article as amended by his proposed amendment would accomplish anything that would not be accomplished by the mere statement "voting shall be secret?" If I understand his amendment the legislature may provide any means it chooses. That can be done without putting anything in the Constitution; the article as amended by this amendment would have no requirement except secrecy. Is that so?

Mr. JARMAN (Schuyler). I think so. I have simply followed in this amendment the usual provision in Constitutions of the different States of the Union. There is nothing especially original about the amendment with the exception of a few words.

Mr. TODD (Peoria). It seems to me we ought to follow the words of the old Constitution in this section. It is a guarantee against radical innovations in the voting system, and our Supreme Court has shown clearly that it is inclined to go all the way that is necessary to go to permit a modern system of balloting, if this should be introduced in this State, and I hope this amendment will be voted down and Section Two will remain the same as it was reported by the committee and as it is in the present Constitution. I urge that in the voting upon this question the committee be sustained in this report. They have considered all the other questions, considered them seriously and worked it around from every angle, and finally came back to the conclusion that the present section was the best.

Mr. DUNLAP (Champaign). I just want to say one word with reference to this amendment. I believe some amendment along this line would be desirable for the reason that possibly we will not want to vote by ballot in the sense we are voting now, but vote by some other device that may be invented or provided whereby secrecy can be maintained and the voting be done more expeditiously. We have had in the past some inventions of this kind but they have not proved satisfactory. This does not mean that they may not at some future period find something that will be desirable. Now, I believe it would not be out of place to permit here in the Constitution latitude for some such voting system, that might possibly be inaugurated in the future, and I suggest that if the amendment be in proper form that something along that line be adopted. I think it is desirable to leave it unhampered.

VOICES. Question, question.

(Amendment lost by a vote of 25 to 43.)

Mr. SMITH (JoDaviess). I desire to offer the following amendment to Section Two. Amend Section Two of Proposal 351 as printed to read as follows: "All votes shall be by ballot and no elector shall at any election cast more than one vote for the same office."

Mr. Chairman, it seems to me that this section is about as fundamental as voting itself, if it is closely allied to the very fundamental principles of voting. I do not direct this amendment at the present practice of cumulative voting for members of the legislature, although that is where it is almost exclusively applied, but it seems to me that the amendment is so fundamental it belongs to this section right close to the ballot itself. Of course, the argument that it might destroy cumulative voting and thereby minority representation might be presented at this time, but my personal idea was to abolish cumulative voting. It seems to me we do not want central committees to dictate to us how many nominations shall be made, and not only dictate to us in the various legislative districts that there shall be a minority representation whether the people desire it or not, but they dictate what the major representation shall be, because they dictate to us how many majority candidates shall be nominated. It seems to me that this practice is universally undesirable. I do not mean to say that many good men would not be elected by minority representation, but the practice is

undesirable in nearly all the districts in the State of Illinois, and I hope, gentlemen, that this amendment will carry because I believe it represents a fundamental principle in voting.

Mr. SIX (Pike). It occurs to me that the amendment is not germane to the subject. The topic which the amendment introduces is a method of representation and the subject being considered is a matter of suffrage—an entirely distinct proposition. I think the amendment is out of place as bearing on paragraph two; the amendment has to do with the counting, while suffrage has to do with the expression only of the electors' idea at the polls.

Mr. SUTHERLAND (Cook). It seems to me that the remarks of the delegate from Pike (Six) are in point, and in furtherance of that I will move—and I will say in making the motion, that I think this is a subject worthy of serious consideration; it is already pending before another committee, namely, the Legislative Committee. Therefore, I move that this committee report out this amendment to the Convention with the recommendation that it be referred to the Legislative Committee.

Mr. WALL (Pulaski). I think this is germane to the question that is being considered. I differ radically from the gentlemen from Pike and Cook on that subject. We are considering the report of the Committee on Suffrage. We have considered the limitation of the voting power; we have considered woman suffrage, making it universal in this report. Now, we are considering whether or not any person shall vote more than one time or for only one candidate. Practically speaking that is the way it is put in this amendment. I think it is germane to the question under discussion. whether or not suffrage can be extended to any citizen that is entitled to it to the extent that he can vote more than one time, cast more than one vote for any one candidate. I think that this is the place it ought to be considered. As a matter of legal consideration it strikes me that it is a very opportune time and, exactly the place it should be considered. It is true that question may be pending before another committee, but this is fundamental, it strikes me from the legal standpoint, to consider this question now.

Mr. SMITH (JoDaviess). I wish to reply to the delegate from Pike (Six) by repeating something of what I said in offering the amendment, that the object and intention of this amendment is primarily to abolish cumulative voting, not minority representation. It might apply in other places in the government of the State of Illinois than merely the election of members of the legislature. Incidentally, that is the most important place that it now applies. However, I believe the principle ought to be taken care of in this section of the proposal on suffrage and elections because I think it is so closely allied to the ballot itself. The matter before the Legislative Committee concerning the taking out of the proviso in the Constitution or enabling clause whereby voters can cumulate their vote for members of the lower house of the General Assembly, of course is purely a matter for the Legislative Committee. However, if this fundamental principle was incorporated in this article on suffrage and elections, where I think it properly belongs, that matter would be taken care of. Therefore, it would broaden the field for the Legislative Committee for working out their proposal concerning representation; they could then disregard the matter of minority representation if they desired so to do, because it has already been taken care of by abolishing cumulative voting. However, it might not apply only in the matter of the election of the lower house of the General Assembly, but might apply in the elections to other bodies, as city councils, drainage boards and other legislative bodies, and I think wherever it is applied it is evil, and should be abolished. Therefore, I hope the members will favor this amendment.

Mr. TAFF (Fulton). I take it that any authority the legislature has as to cumulative voting is given by the Constitution, and that by amendment the legislature could not provide for cumulative voting in other offices. Therefore, I think that this section is not germane to this article which is now under consideration by the committee.

Mr. TRAUTMANN (St. Clair). I do not agree with the members of the committee who take the position that the amendment simply applies to voting for members for the General Assembly. It applies to everybody for every office, as I heard it read. Our present Constitution provides for cumulative voting in two instances; one for members of the General Assembly and the other for members of boards of directors of corporations. Those are the only two instances; but the legislature came along and passed laws permitting people to cumulate their vote for members of the drainage boards and the Supreme Court held that that was legal; that the mere fact that the Constitution provided in two instances for cumulative voting did not exclude cumulative voting in other instances. As I understand this amendment it is to prevent cumulative voting in any instance in Illinois, so a man or woman can vote for but one candidate at any one time for any office. If this is what is being attempted then it is proper at this time. If he is simply attempting to apply it to members of the General Assembly then it should go to the other committee. As I understand he is trying to prevent cumulative voting in every instance with the possible exception of boards of directors of corporations.

Mr. REVELL (Cook). I would like to vote on this matter in its proper place. I am against cumulative voting, but I believe we should have the advice of the Legislative Committee which has undoubtedly given this matter considerable attention. I do not want to vote upon this proposal now, however much I favor it, without getting the consensus of opinion of any committee of this Convention that has given this matter attenion. I therefore join with the delegate from Cook (Sutherland) in his motion that this section be referred to a joint committee of the Committee on Suffrage and the Legislative Committee and ask for a quick report back to this Convention. I second the motion of Mr. Sutherland (Cook).

Mr. CUTTING (Cook). I think we ought to well understand that in all probability the passage of this amendment will cut off the election of directors by cumulative voting. That would permit in any corporation one faction which has fifty-one per cent of the stock, or rather would allow a faction with fifty-one per cent of the stock, to elect every director. At the present time the minority may be represented and I believe it is desirable it should be. It cannot control the corporation, but it would have something to say about its management. If this were confined to public offices I would be rather inclined to favor it. You can easily fix that by putting in "public offices;" then I am for it.

Mr. SMITH (JoDaviess). I had no thought whatever in preparing this amendment but that it would apply only to public offices. However, if there is any danger of any misunderstanding coming from not including public offices, I am perfectly willing to have that included. I desire that the amendment apply to public offices only.

Mr. SUTHERLAND (Cook). It has been suggested by members of the Suffrage Committee and by some other gentlemen that it would make it easier to dispose of this article finally today if this amendment were voted up or down without reference to any other committee. I made the motion, but on that suggestion I will withdraw the motion, so that the vote can be straight on this matter.

(Amendment lost.)

Mr. JARMAN (Schuyler). I offer the following amendment, right after the word "ballot," "the General Assembly may provide for absentee voting." I would like to ask the chairman of the Suffrage Committee if it considered that subject in committee?

CHAIRMAN CRUDEN. We did. The Suffrage Committee gave that attention, gentlemen, and we find the General Assembly in 1917 passed a law relating to absent voting and also extended it in 1919. We thought that was sufficient, and no one questioned the right of the General Assembly to do so.

Mr. JARMAN (Schuyler). Here is the situation. I take it from the passage of the law by the legislature that it is desirable to provide for absentee voting. The question has arisen whether this section of the Constitution prohibits an absentee voting law. The specific question is whether the

provision contemplates that suffrage shall be exercised by the voter in person at the voting place, precinct or district in which he resides. The Supreme Court has never passed upon this question. In 1912 the Attorney General indicated that he felt some doubt as to whether or not an absentee voting law would be constitutional under this section, although upon the consideration of decisions of other States, he was perhaps inclined to the view that such an act would be a valid enactment. In 1917 the General Assembly passed an act providing for absentee voting by persons in the military or naval forces of the United States. Upon that action the Attorney General said that while he had some doubt as to the constitutionality of such a measure his doubts were not serious enough to compel him to advise against the passage of the Act. If it is desirable, I think it is unwise to leave the question in doubt as expressed here by the Attorney General that such a law is unconstitutional. Our courts have never passed upon it, and the Attorney General of the State has indicated his doubt as to whether or not it is unconstitutional. Therefore, I think it is desirable that the amendment should be made.

CHAIRMAN CRUDEN. Any further remarks?

Mr. MICHAL (Cook). I have given this matter considerable thought, and I have come to the conclusion that the system giving absentees the right to vote is bad. I think it is conducive to trickery, deception and fraud. I think if a man wants to vote he should appear in person, being physically present at the voting place. If there is any question as to his right to vote he is then and there in a position to refute it or the other party is in a position to challenge. I think we ought not to go into this and give absentees the right to vote.

(Amendment lost.)

CHAIRMAN CRUDEN. The question now is upon the adoption of Section Two of the article as presented by the Committee on Suffrage.

(Section Two adopted.)

CHAIRMAN CRUDEN. Mr. Clerk, will you please read Section Three?

(Section Three read by the Clerk.)

Mr. MILLS (Macon). I move the adoption of Section Three into the Constitution.

(Section Three adopted.)

CHAIRMAN CRUDEN. Mr. Clerk, please read Section Four.

(Section Four read by the Clerk.)

Mr. TRAEGER (Cook). I move its adoption.

(Section Four adopted.)

CHAIRMAN CRUDEN. Please read Section Five.

(Section Five read by the Clerk.)

Mr. TRAEGER (Cook). I move its adoption.

(Section Five adopted.)

CHAIRMAN CRUDEN. Please read Section Six.

(Section Six read by the Clerk.)

Mr. MILLS (Macon). I move the adoption of the section.

Mr. HULL (Cook). I would like to ask a question with reference to this section. The whole article has to do with the filling of elective offices, yet in this particular section we find the word "appointed." It would seem to me that provision which refers to the filling of offices by appointment should properly be left out. There are a good many offices that have to be filled by appointment, and here is a provision which affects the qualification of the persons who may be appointed to those offices; that they shall have been a resident of this State for one year. Aside from the fact that this article ought to have nothing to do with the filling of appointive offices, it seems to me this provision relating to appointment is a bad one here anyhow, because it may be in some of the technical offices of the State it will deprive the appointing power of getting the proper persons to fill those particular offices. Take the Secretary of the Reference Bureau; and some of the technical staff of the Public Utilities Commission, in the Highway Department. There are offices that have to be filled by appointment and it may easily be that the proper person to fill those offices is someone that can be

obtained only out of the State. Mr. Trautmann suggests that the same is true of the Normal Schools and the University. Therefore, Mr. Chairman, I offer an amendment to this section: Amend Section Six by striking out the words "or appointed" in line one, and the words "or appointment" at the end of line three of this section, making the section read—"No person shall be elected to any office in this State, civil or military, who is not a citizen of the United States, and shall not have resided in this State one year next preceding the election."

Mr. CARLSTROM (Mercer). I disagree with the amendment offered by the gentleman from Cook (Hull) for several reasons: One is we have labored along since 1870 with the exact language in the Constitution of the State of Illinois that is proposed to be operative in the next Constitution. So far as I know there has been no complaint that the University of Illinois has been unable to exist; and the Public Utilities Commission has grown to such stature as to create considerable comment, to say the least, throughout the State. I take it that no man should be appointed to any public office in the State of Illinois who is not a citizen of the United States. Surely no one would contend we should lay down the bars and appoint people not citizens of the State of Illinois. Appointments are often made to fill out unexpired terms of elective offices and certainly the same requirements of citizenship which would qualify a man to hold office by election ought to apply to one filling out the unexpired term of elective offices by appointment. Having regard to the fact that we have for fifty years progressed satisfactorily under a provision that requires citizenship for appointment as well as election, I think it would be a serious and great error to now strike out these requirements for persons who might be appointed. Certainly, gentlemen, we do not want to lay down the bars and permit those who have not thought enough of this country to become citizens of it, to hold office, and that is what this would do.

Mr. HULL (Cook). I did not have the question of residence in mind; so far as citizenship is concerned, every statute that creates an office can prescribe the qualifications for that office, and include the question of citizenship, so it is not necessary here. The gentleman has suggested he has not heard of any embarrassment arising from the presence of those words as they appear in the Constitution today. I am advised that the question has been raised before the Civil Service Commission and has caused some considerable embarrassment. I think it has nothing to do with the appointive power, with the right to fill elective offices by appointment, and for that reason alone it ought to be out of the article.

Mr. TODD (Peoria). Is it your understanding that the legislature could provide for the appointment of other public officials except where such offices are created by the Constitution?

Mr. HULL (Cook). I do not know whether I understand your question, but wherever it provides for appointive offices it can provide for the qualifications of the persons filling those offices.

Mr. TODD (Peoria). Your plan would open the door so a person could be appointed under the law in this State to any office except such office as has been created by the Constitution.

Mr. HULL (Cook). I do not think it hits that at all.

Mr. TODD (Peoria). It would open the way to appoint people who are not residents of this State to practically every office in the State except those offices created by the Constitution.

Mr. GORMAN (Cook). There are some other matters which will come before the Convention at a later date that I think this question will refer to, and I think we ought to treat this section very seriously. I believe it ought to be retained in the new Constitution in exactly the same form as it appears in the old Constitution. There is a demand that many officers who are now being elected by the people in the future be appointed. Those who are advocates of the short ballot are demanding the appointive power for many positions that are now elective. Now, I do not believe that we ought to require less qualifications for those who will be appointed to those positions

than we have demanded in the election to those positions. I think this section ought to be adopted in exactly the form in which it is presented to the Convention by the committee's report.

Mr. BARR (Will). I simply have this one suggestion to make in connection with the amendment suggested by the delegate from Cook (Hull). As has been suggested by Delegate Carlstrom (Mercer) if the words "or appointed" are stricken out as suggested by the amendment, then, of course, that striking out applies also not only to the fact that they must necessarily be residents of the State, as provided in this section, for one year, but it also strikes out the qualification that they must be citizens of the United States, and it appears to me it would be rather unwise to strike out in this Constitution the qualification of appointive offices, not only that they should be residents of this State for a period of time but that they should also be citizens of the United States. Therefore, it occurs to me that the amendment suggested ought not to be adopted.

Mr. ELTING (McDonough). I think the section as it is in the old Constitution should be retained. For myself, I do not see any reason why the appointive power should be given greater power than elective. If we have any institutions in our State that are obliged to be maintained by getting foreigners to support them, I am against them stronger than ever. I think we have many good men in the State of Illinois who would not be in favor of extending the privilege to the appointive power beyond that of the electors; I am against the proposed amendment and for the report of the committee on this section.

Mr. SIX (Pike). I think Section Twenty-four of Article Five, defining an office, will help some in determining this question. Our present Constitution provides "an office is a public position, created by the Constitution and continuing during the pleasure of the appointing power, or for a fixed time, with a successor elected or appointed. An employment is an agency, for a temporary purpose, which ceases when that purpose is accomplished." I think that definition will apply to appointive officers who are technical experts, which puts them outside of the provision of the Constitution that we are now voting for.

Mr. FIFER (McLean). I desire to say but a word. There are constitutional offices in the State of Illinois and also offices created by the General Assembly. The General Assembly that creates the office can fix the qualifications. Constitutional office qualifications are generally fixed by the Constitution. Now, the whole question, it seems to me, if we are willing to leave it to the legislature to create an office we can leave to the same body to prefix the qualifications. It seems to me it would be perfectly safe to do so.

(Amendment lost.)

Mr. HULL (Cook). I offer this amendment to Section Six: Amend Section Six by adding the following: "This section shall not preclude the General Assembly from prescribing other and additional qualifications for the holding of any public office." I offer that amendment in view of the decision of the court in the McCormick case. You will remember Mr. McCormick was elected a County Commissioner in Cook county and the Statute provided a residence of five years; Mr. McCormick had not lived in Cook county for five years, and the court in that proceeding decided that the Constitution having fixed the qualifications for that office, the legislature could not add further qualifications for that office. It seems to me that the legislature might, with propriety, be empowered to prescribe additional qualifications for public offices than those prescribed in the Constitution itself. I am told there was a bill in the recent session of the legislature—I do not remember it myself—attempting to prescribe as a qualification for the office of State's Attorney that the person should be admitted to the Bar, and it was the opinion of the Attorney General that owing to this provision in our present Constitution that the law would not be constitutional. In other words, the legislature was barred from prescribing one of the very first qualifications which a man seeking that office should have, so it seems to me it would be entirely proper for us to permit the legislature to add additional

qualifications for any public office than those prescribed in the Constitution itself.

Mr. MOORE (Macon). Does the delegate from Cook (Mr. Hull) think that his amendment would be equally efficient if he left out the word "other" —that the legislature might be empowered to require "additional" qualifications, instead of using the word "other?"

Mr. HULL (Cook). I am perfectly willing to cut that word out, change the amendment to conform to that suggestion.

CHAIRMAN CRUDEN. We had this question under consideration and it was thought by several of the members that such a modification annulled the provisions of Section One, and they were opposed to it.

Mr. RINAKER (Macoupin). That would not be the case if it only authorized additional qualifications; the withdrawal of the word "other" in connection with Admiral Moore's suggestion corrects that, and makes it proper for the legislature to require additional qualifications.

Mr. HULL (Cook). I will leave it as it is. I think to be consistent that should apply to the elective offices.

Mr. RINAKER (Macoupin). I move to amend the amendment by inserting the words "or appointive," at the proper place, "elective or appointive."

Mr. SHANAHAN (Cook). I suggest we strike out the word "elective" and make it "any office."

Mr. LINDLY (Bond). Let us have it read as amended.

(The Clerk reading: "This section shall not preclude the General Assembly from prescribing additional qualifications for the holding of any office.")

(Ayes 42, Noes 28.)

CHAIRMAN CRUDEN. The amendment as offered by Delegate Rinaker is adopted. The question now is upon the adoption of the amendment as amended.

(Amendment adopted.)

Mr. TRAUTMANN (St. Clair). I move that Section Six as amended be adopted.

Mr. GEE (Lawrence). I think it is fair to the Convention for me to state that this amendment I now offer has been submitted to the Committee on Suffrage. I am not saying that for the purpose of criticising the act of that committee. I know they used their wisdom, but I wish to amend the section by adding these words: "A man who holds an office by election or appointment shall be able to read and write the English language." I believe a man should qualify himself in this small particular, and it is not a hardship for him to do it. A man should make himself competent to read and write and use the English language before he has a right to seek appointment or seek the will of the electors at an election. If he won't do that, if he has not enough patriotism in him to qualify himself in that particular, we do not owe him anything. This question of holding office is not an inherent absolute right. It is a right we give, and we should be careful to give it to men who have the competency to learn to read and write the language. I think this is a question that should be seriously thought out by this Convention, and whether we would not be making a better record for ourselves if we say that a man shall be an American citizen and a citizen of Illinois, competent to read and write the English language or he cannot hold any office.

CHAIRMAN CRUDEN. On account of the statement made by Delegate Gee regarding the action of the Suffrage Committee, I want to make this statement for fear you might think we were not as patriotic as he. The proposal he proposed was not the only one that came before the committee, and we gave that matter considerable attention. There was no sentiment in the committee for the adoption of that proposal. We thought in the very first place it would cast reflection upon the United States Government in granting citizenship to anyone, and secondly, his proposal received the same treatment as others, and none survived.

(Amendment adopted, 42 to 29.)

Mr. TRAUTMANN (St. Clair). I would like to ask a question for information. You now have two amendments to this section following the last one, one offered by Delegate Hull (Cook) and one offered by Delegate Gee (Lawrence); both amendments to this section immediately following the word "appointment."

Mr. GEE (Lawrence). I suggest we leave that to the Phraseology Committee.

Mr. TRAUTMANN (St. Clair). We are talking so much about education, we should at least get our amendments straight.

CHAIRMAN CRUDEN. Before we proceed to the adoption of this section as amended, I will ask the Secretary to read it, as he understands it. (Laughter.)

THE SECRETARY. "No person shall be elected or appointed to any office in this State, civil or military, who is not a citizen of the United States and who shall have resided in this State one year next preceding the election or appointment, or who is unable to read and write the English language. This section shall not preclude the General Assembly from prescribing additional qualifications for the holding of any office."

Mr. TRAUTMANN (St. Clair). I move that Section Six be adopted as amended.

(Section Six adopted.)

CHAIRMAN CRUDEN. Will the Secretary please read Section Seven?

(Section Seven read by the Secretary.)

Mr. TRAEGER (Cook). I move we adopt Section Seven as printed.

Mr. GEE (Lawrence). I offer an amendment to Section Seven, by adding after the word "crimes" the following: "Persons who refuse to bear arms in defense of the State or nation on account of conscientious scruples or who cannot read and write the English language." Now, what I say about conscientious scruples—I know that men will tell you that all men are created equal. That is one of the cardinal principles in the Declaration of Independence. Theoretically, that sounds very beautiful. Practically, it does not always work out. Now, we have a country that many men come into with the idea that it was fixed to take care of them. I belong to the old school of men that believe that the men of the State are required to take care of the government. So far as that duty is concerned all men are created equal. I believe that any man of this State of Illinois of ours is no better or any less than I am, or you are, so far as taking care of the government is concerned. The highest thing that the government gives and guarantees a man is the right to vote, to select an officer, to select a policy under which the government shall perform its functions. Now, when the government gets into the throes of peril and possible dissolution, that one class of men can separate themselves and say: "We will not help to fight your battles and win the supremacy of this government because our conscience dictates we cannot do it." I echo the statement made many years ago by a foremost American that "Conscience is a word that the coward uses." Now, men, we are up to the question of the ballot box that we hear so much about the preservation of, that we must guard it closely to get the right expression of the right kind of people. Let's guard it a step more and say to those men, "Indirectly you are destroying your government by not fighting to preserve it; you cannot go to the ballot box and with your secret kind of conscience have a vote that may do what the guns cannot do—destroy your government." Gentlemen, I appeal to you to meet this question of the hour now like what you are, men, and tell those men that we must preserve our government with the manhood power of the nation, and that so far as we are concerned they cannot be equal with us on the suffrage question.

Mr. PINCUS (Cook). Who is to determine whether a voter is a conscientious objector or not?

Mr. GEE (Lawrence). In the same way that we make a qualification in the Constitution that a man shall be twenty-one years old. In the communities with which I am conversant we know our men. If we do not be-

lieve they are qualified they are challenged. We know the men in our community, and you know the men in yours. You can challenge him.

Mr. PINCUS (Cook). What degree is to be used with reference to the ability of the voter to read and write the English language?

Mr. GEE (Lawrence). I think to ask him to write his name. I think that will carry out the constitutional provision.

Mr. PINCUS (Cook). You think it would qualify him to vote, or should he be compelled to write a sentence dictated by somebody? If I were examined by a professor of a university I might not be able to pass an examination. In my district there are about five hundred aliens, who volunteered to go across. After serving and coming back they were made citizens of the United States. Out of the five hundred not one can read and write the English language. Are they not just as much entitled as any other citizen to the right of suffrage?

Mr. GEE (Lawrence). I have the highest commendation for that class of men, but I do believe it would take only a small portion of their time to qualify to read and write, and they will qualify themselves.

Mr. PINCUS (Cook). But these men cannot write a word of English; they have fought for their country; are they not entitled to any consideration because of the fact that they volunteered and went across to fight for this country?

Mr. GEE (Lawrence). Yes, every consideration, but I do not want to give them any more consideration than the man who lived here all the time; I do not make any distinction. I put them where I put myself, my own kind, and I do not ask anything of them that is not asked of American-born citizens, and I do not think it is asking too much that they be able to read and write the language of their country.

Mr. PINCUS (Cook). These men came to this country for certain reasons, I don't know what, but they have been naturalized, and you would deprive them of the right to vote until they learned to read and write the English language?

Mr. GEE (Lawrence). Yes.

Mr. LOHMAN (Cook). Do you realize what the negro population in the State of Illinois is?

Mr. GEE (Lawrence). Yes, I think I do.

Mr. LOHMAN (Cook). You also realize that the negro in every sense of the word has been hindered in his education, don't you?

Mr. GEE (Lawrence). I do not think that is true as a general rule in Illinois. In my county they sit in the same schools. I have a young man in my employment now who is a bright colored boy. He has had the same opportunity as any white child in my town, and he is able to read and write.

Mr. LOHMAN (Cook). And I have forty thousand negro residents in my district, and if this amendment carries, we will have all of the colored voters of the City of Chicago against the Constitution.

Mr. GEE (Lawrence). And I think we will have forty thousand citizens over twenty-one years of age making themselves better American citizens on that account. (Laughter.)

Mr. MICHAL (Cook). Mr. Chairman and gentlemen of the Convention: I ask you to reflect upon the latter part of this amendment. I do not think it is a fair proposition at all. I think in the recent war we endeavored to gather about us, people, whether able to read the English language or any other language and we went to the front together and we went under one flag. I say it is an affront to the people who have not had an adequate opportunity to learn to write and read the English language, but who are nevertheless willing and desirous of becoming loyal citizens. I do not think it is the policy of good government to endeavor to prescribe a rule of education for its subjects. I think that is a despotic way of treating people who are endeavoring to do what is right and who are endeavoring to live under the conditions that obtain in the land of their adoption. I think it is hostile and inimical. I was born in a foreign country, and I came to this country with my parents, and I will not stand for any man saying that he is more loyal to the institutions of this great commonwealth than I am, and

that includes the gentleman who proposed this amendment. I am tired of this bully-ragging. I think it is blue-bellied Yankeeism. I think it is not Americanism. I think it is hostile to the fundamental principles of our country, and I think the amendment ought to be voted down. (Laughter.)

Mr. FIFER (McLean). It does seem to me it would be a very great mistake indeed to have this amendment adopted. Now, it comes within the experience of us here that we know many men of good intellect and common sense who can neither read nor write. They have made fortunes and are carrying on important businesses throughout this great State of ours, and are business successes in the communities where they live. Now, there is still another aspect to the situation. I know that during the Civil War there were men in my own company who could neither read nor write the English language and had to get their comrades to write home in their behalf, and that was equally true in our recent war. Now, to propose in this Constitutional Convention to disfranchise certain men who in the darkest hour that this nation ever saw went out with their lives in their hands ready to do and die for our flag, would be an infernal disgrace to this Convention and to the State of Illinois to do so, and I enter my solemn protest against it.

Mr. DAVIS (Cook). I propose the following amendment to the amendment proposed by Judge Gee. Strike out the words "who cannot read and write the English language."

Mr. GEE (Lawrence). I accept that.

Mr. JOHNSON (Bureau). Mr. Chairman and gentlemen of the Convention: I cannot vote for that amendment. I think it flies in the teeth of the third section of the Bill of Rights. I will now read part of that section: "The free exercise and enjoyment of religious profession and worship, without discrimination, shall forever be guaranteed; and no person shall be denied any civil or political right, privilege or capacity, on account of his religious opinion." The conscientious objector has a religious opinion, and to deny him the right to hold such a religious opinion is to deny him a political right. I am glad the fathers wrote that in there. There is not a delegate in this Convention, I hope, who has not conscientious convictions upon right and wrong. I trust that the man is not upon this floor who does not recognize Jehovah as his God and who has not conscientious scruples about doing this or that thing. It occurs to me that we are harking back in this amendment to the days before the Federal Constitution was adopted, and we are here attempting to force upon citizens that they must worship just precisely as we worship. I have not much sympathy with the class of men, some of them, who claim to get behind the cover of conscientious scruples and refuse to go to the front, but still I give to every man, Mr. Chairman, the same right that I claim to exercise with regard to my worship, with regard to my conscience, with regard to my religion. That right is guaranteed to every individual and I do not think that that should be written in this Constitution and thus penalize the man because he, forsooth, recognizes his God and is seeking to be true to the conscience that is implanted within him. Let us not commit that mistake in the twentieth century, and we will not do it if we listen to the voice of our dead fathers. We have gone far enough, gentlemen of this Convention, upon this subject when we had under consideration the military provision. When I was on the exemption board there were many men who claimed the right on the ground of conscientious scruples, and they were as fine a type of men as I ever knew in all my life, and I had known them from the cradle. One of them afterwards, who thought it over, said, "I went down on my knees to my God, and I cannot follow father's advice longer. I will put on the uniform and I will fight for my country." That was a change in his conscience. We may well work to that end along the line of education, but do not let us penalize a man who seeks to obey the dictates of his conscience in the worship of his God. We will make a mistake if we do it, gentlemen, I say we will make a serious mistake. I will vote against this amendment. (Applause.)

Mr. SUTHERLAND (Cook). It seems to me, gentlemen of the Convention, that the delegate who has just spoken has voiced a fundamental principle of popular government. On the other hand there is much in the idea

back of the amendment offered by the delegate from Lawrence (Gee) to commend itself to patriotic citizens. My personal thought is that the Constitution might be left free from these provisions and we would still go on as well as we have, but if he insists upon it, it seems to me, Mr. Chairman, it seems to me it should be amended to conform with the action that we have already taken with reference to the militia article in which we said that a man must perform some service to the State, even if he had conscientious scruples against bearing arms, so Mr. Chairman, if the delegate from Lawrence is going to insist upon this amendment I would like to offer the following amendment to his amendment, "or who refuses such other service as is provided in the article on militia."

Mr. GORMAN (Cook). I desire to call the attention of the delegate to the inherent weakness of this contemplated amendment. It denies the right of suffrage to those who shall refuse to bear arms animated by conscientious scruples, but inferentially confers the right of suffrage upon those who refuse to bear arms animated by other motives.

CHAIRMAN CRUDEN. Mr. Secretary, will you please read the amendment that is now before the House.

THE SECRETARY. (Reading). Amend Amendment No. 10 by adding the following "or to refuse such other service as is provided in the article on militia."

VOICES. Question, question.

(Amendment lost.)

CHAIRMAN CRUDEN. The noes have it. The vote is now on the amendment offered by Delegate Gee.

(Amendment lost.)

CHAIRMAN CRUDEN. The question now is on the article as printed.

Mr. SNEED (Williamson). I desire to amend that part of this report as follows: Amend section seven by adding at the end of line two after the word "infamous crimes" these words: "and those who willfully refuse to exercise their right of suffrage."

Mr. REVELL (Cook). I wonder if Delegate Sneed would hold that until we meet again. I move that we now recess and adjourn until 2:30.

Mr. HAMILL (Cook). A motion to recess to a certain time is not in order.

Mr. TRAUTMANN (St. Clair). I move that the Committee do now rise and report progress and ask leave to sit again.

(President Woodward presiding.)

Mr. CRUDEN (Cook). Your Committee on Suffrage having under consideration Proposal 351 now rises, reports progress and asks leave to sit again.

THE PRESIDENT. There being no objection, the request is granted. By unanimous consent of the Convention we will revert back to the order of reports of standing committees in order that one of the standing committees may submit a report.

Mr. BRANDON (Kane). Your Committee on Education begs leave to submit a report which it hopes will be a final report.

Your Committee on Education to which was referred Proposals numbered 10, 24, 27, 35, 61, 99, 130, 131, 139, 182, 200, 214, 231, 235, 238, 255, 258, 271, 334, 337 reports the same back with a substitute therefor being Proposal No. 359, a proposal to amend Article VIII of the Constitution of 1870, and recommends that the original proposals, above enumerated, be rejected, and that the substitute Proposal No. 359 be placed on the General Orders.

(Signed) RODNEY H. BRANDON,
EDWARD J. CORCORAN,
W. H. BECHMAN,
MICHAEL IARUSSI,
MICHAEL ROSENBERG,
GEORGE A. BARR,
WM. S. GRAY,
H. M. DUNLAP, except as to Sec. 4.
Committee.

THE PRESIDENT. Under the rules the report of the committee will be printed and lie upon the table.

Mr. DUNLAP (Champaign). I desire to present a minority report to the report of the Committee on Education, and I do this fully concurring in the report of the majority of the Committee so far as their report is concerned except as to one section, and that section refers to a matter so important that I think it is advisable that I should make a minority report upon that section, and I make that report in order that the members may be conversant with the matter in controversy in this Committee and study the question in such a manner that they will be able to act intelligently upon it when it comes up for consideration.

THE PRESIDENT. The Secretary will read the report.

COMMITTEE ON EDUCATION MINORITY REPORT.

This minority report concurs in the report of the Committee on Education except as to section 4 thereof and recommends that said section 4 be rejected, and after the minority report, being Proposal No. 360, be substituted therefor.

H. M. DUNLAP.

THE PRESIDENT. Under the rules the report of the minority will lie upon the table and be printed.

Mr. DEYOUNG (Cook). I move when the Convention adjourns, it adjourns until eight o'clock this evening. There is a delegation of lawyers and other men interested in matters in Cook county here on the way to address this Convention as a Committee of the Whole this evening in accordance with arrangements which were made a week ago, and it is for that reason, gentlemen of the Convention, that I make the request that when the Convention adjourns, it adjourns to meet at eight o'clock. This hearing tonight will conclude the hearings of the Judiciary Committee in Committee of the Whole.

THE PRESIDENT. Are you making that as a motion?

Mr. DEYOUNG (Cook). I will make the motion directly, that the Convention do now adjourn until eight o'clock this evening.

(Motion prevailed.)

THE PRESIDENT. The Convention stands adjourned until this evening at eight o'clock.

Whereupon the Convention took a recess until Wednesday, April 21, A. D. 1920, eight o'clock p. m.

8:00 O'CLOCK P. M.

The Convention reconvened pursuant to recess.

The President in the Chair.

THE PRESIDENT. The Convention will please come to order. The Convention recessed until this evening for the purpose, as the Chair understood it, of going into the Committee of the Whole for the purpose of considering certain proposals pending before the Committee on Judicial Department. The motion will be in order for the Convention to resolve itself into the Committee of the Whole.

Mr. DEYOUNG (Cook). I move that the Convention do now resolve itself into the Committee of the Whole for the purpose of considering proposals that have been referred to the Committee on Judicial Department.

(Motion carried.)

THE PRESIDENT. Delegate DeYoung, Chairman of the Committee on Judicial Department, will please take the Chair and act as the Chairman of the Committee of the Whole.

(Chairman DeYoung Presiding.)

CHAIRMAN DEYOUNG. Mr. President and Gentlemen of the Committee: we will proceed immediately to hear the discussion on these matters, for the hour is late. The first speaker wil be Albert C. Barnes,

Judge of the Appellate Court of Illinois, First District. Gentlemen of the Committee, Judge Barnes. (Applause.)

JUDGE BARNES. Mr. Chairman and Gentlemen of the Convention. Several of us here are from Cook county to endorse the proposition in one of the proposals submitted for your consideration for an appointive judiciary in Cook county. We recognize that judges outside of Cook county can be very properly selected by vote, but the conditions which exist in Cook county are such that it is becoming a very serious question whether or not we should in Cook County proceed under the elective system. This question cannot be considered purely from a theoretical viewpoint. It should be considered from a practical standpoint for it is not a theory. It is a condition that confronts us in Cook county. We recognize, to start with, that it is impossible for the people to exercise any discrimination whatever in regard to the merits of candidates, by an election. The condition that exists now would perhaps best bring the proposition before you as to its seriousness. We now elect, for instance in the circuit court, twenty judges at one time. Their terms of office will expire next year. It is proposed, I think, before this Convention that the two courts, the circuit and the superior courts of Cook county be consolidated. There are twenty judges in each of these two courts. It is probably also, that at some future time, in case the elective system obtains, their terms of office will expire at the same time and that at some future election the number of judges will be as many as seventy. We have now seventy-four judges in Cook county; there may be even more than forty judges elected at one time, possibly seventy. Under the present system these judges are elected at what is called a judicial election.

Under the law as it now exists judges are nominated by the political committees of the two leading parties. In fact it operates as an appointive system already, but not an appointive system of the right kind. These judges at the present time are elected on the tickets having a political designation at the head of each column of the parties. It has been the experience in Cook county and always will be that independent nominations were practically of no avail because they cannot succeed against organized party efforts; the consequence is that the judges nominated by the two great parties are elected, but under that system the judges are practically political judges. They are selected partly because of political consideration. I do not decry the judiciary of Cook county; it has good judges and poor judges as is probably the case almost everywhere, but we do not have as good judges as we should. Now, there is a sentiment in this State, at least it has grown up of late years in Chicago, that in order to have the judges selected with regard to merit, not with regard to political considerations and partisan affiliations, the political designations should be left off the ballot and the names should be all placed in one column, and there is going to be great pressure in the future upon the legislature to have that form of ballot.

Now, I wish to submit to you as a practical proposition, what are the opportunities for choice by the people when such a condition as that exists? If everybody that wants to get his name on the ticket by petition of probably two thousand voters can do so, why, you can readily see that with the ticket made up of candidates for seventy places or even fifty places, that there will be numerous candidates for the positions, and they will take their chances to be elected, and they may well do so in view of the conditions that exist in Chicago. Political influences will not be eliminated; the organization of the leading parties will have their ticket made up but they will not have the same ability to put them through as with the political circle. What considerations will arise then in the selection of judges? There being no other offices to be voted for we find this situation: We have in the City of Chicago a great foreign population; that population exceeds the native born citizens; the foreign naturalized citizens and those of foreign parentage exceed the native-born citizens in Chicago; we have certain localities in Chicago that are practically racial areas; their people have a large vote; their influence is sought by the politicians; they recog-

nize that fact and when the judicial elections will come up in the future they will be demanding representation on the ticket because of the vote they can cast, and these different races will then, as they are doing now, demand recognition on the basis of race representation. Now, no one needs say to a Convention of this character that that is an improper basis of consideration for the election of judges. No one needs to tell a Convention like this that the very stability of this government rests on the integrity and character of its judiciary, and the question is how may we best obtain a judiciary of the highest character that approaches some of our ideals? Can it be obtained by election under such conditions as these? Where there are a great number of candidates, few vote for all the candidates; if you have fifty places to be filled on the ticket I think it is safe to say that few men will vote for more than one-half, perhaps one-third of the places to be filled; they will vote for the few men they know, or of whom they may have heard or of whom some one has spoken, but they will, with a great long ticket, vote for but a few of the candidates, and we know from experience in the City of Chicago that when a racial representative gets upon the ticket he sometimes gets pretty nearly the solid vote of his race, and that race may vote for but a few other candidates; and those will recognize in the future when there are so many places to be filled that a solid vote for one or two candidates is likely to bring that candidate, as it were, under the wire. Those are practical considerations.

Now, no one I am sure, objects to a candidate because he belongs to any particular race, but one may well object to presenting a candidate simply because of his racial connections or any other particular affiliations. I, for one, believe if we ever have legislation of that character and are required to select our judges in that fashion that we will be in a very much more dangerous position in regard to the character of our judiciary than we will be if we continue to elect candidates under the partisan designations; if not a party basis they will vote for them on racial, social or some other consideration. Now, it being practically impossible for any number of the voters to know the judges personally or to know anything about their qualifications it follows that you go up against a mere system of chance in the election of your judges. Much depends upon whether they are put before the people by somebody that is competent to pass upon their qualifications in the first instance. I said we are now going on under an appointive system, and a very bad one, because the people do not elect their judges; that may be corrected, but however you correct, the elective system, with the steadily increasing population of Chicago, that votes and yet is not thoroughly Americanized, we cannot expect to bring before the people men of the highest character and the highest qualifications to fill our places on the bench.

It is for that reason we are here urging an appointive judiciary. Wherever that system prevails they are satisfied with it. When we cannot find decisions on a point by our own Supreme Court we very gladly turn to the decisions of such States as Massachusetts and New Jersey where they have an appointive judiciary, because of the high character of the judiciary. I think if we had the power to appoint Judges lodged in the Supreme Court or in the Governor upon the recommendation of the Supreme Court, we could hardly select any superior tribunal to pass upon the merits of the candidates. The Supreme Court, in the first place, would be the most disinterested body, to be consulted. They have a council in Massachusetts, and some other states but how could a council better pass upon the merits and qualifications of candidates than our Supreme Court? It is interested in having the ablest judges in the lower courts; for it would relieve them of many burdens. It would get its information in regard to the qualifications of the judges, naturally, by consulting the members of the bar. We would have expressions of the bar and others in regard to the qualifications of the men. It is because of the superior advantages of the appointive system and because of the failure of our elective system that we are here to urge the change.

One word as to whether or not there would be any great opposition to the insertion of a provision like this in our Constitution. I apprehend you are thinking of what the people may do in regard to your Constitution. How much do the people of Cook county prize the opportunity and privilege of voting for judges now? Even now, when we have judicial elections and the political committees are active in holding campaign meetings the candidates circularizing the city; and the newspapers in impressing upon the people the great importance of judicial elections, we can scarcely get thirty per cent of the voters out to vote for the judges.

As an illustration, one of my fellow judges who was defeated the next morning after the election met a cashier of one of the largest banks in Chicago, his neighbor, who lived across the hall. The neighbor was boasting that that was the first time in his life that he voted the straight democratic ticket, and my associate said to him, "You are one of the men who defeated me." He replied, "Were you on the ticket?" Now, when business men in the City of Chicago do not know who are the candidates for judges, do not take sufficient interest to vote for them, when men have to stand on the corners of the street to ask you, when you are on your way to business, to vote for judges, when such conditions exist there, you cannot fear that the people of Chicago will think you are taking them any great privilege by depriving them of the power of voting for their judges.

Another consideration in that direction is this. I apprehend that when this Constitution is submitted to the people, in whatever form, it will find some opposition. I apprehend we can point right now to some sources of it in Chicago, but whatever that opposition may be it will not be because of the insertion in the Constitution of the right to appoint judges. Something else will engage the attention of the people of Chicago, when you submit this. It will be the question of taxation, of representation, of the I. and R., those questions which come pretty close to the people and affect them, one way or another, they understand. But they will not dwell very emphatically upon being deprived of the right of voting for candidates for the bench.

Gentlemen, there are others to speak on this question. I thank you sincerely for your attention. (Applause.)

Mr. CORCORAN (Cook). Judge Barnes, have you considered it might be a good thing to elect judges from districts, a certain number acording to population, thereby doing away with this great long ballot of fifty names at once? Have you given that any consideration?

JUDGE BARNES. No, I have not, but I would not think very favorably of it. I should think if you elect judges from a small district that they would be keeping their ears to the ground all the time.

Mr. CORCORAN (Cook). Some of the districts have no judges on the bench at all, and we have good judges in those districts.

JUDGE BARNES. I will concede that you have better judges off the bench than on, that is the trouble.

Mr. PINCUS (Cook). Judge Barnes, I have the highest regard for your qualifications, but I would like to have you tell this Convention who first discovered your qualifications to sit as a judge in Cook county.

JUDGE BARNES. I have never ascertained that yet. (Laughter.)

Mr. WALL (Pulaski). Just a question for information: Have you thought in the adoption of the Constitution, although there is a small vote on judges in the city, and almost all voters stay at home, what have you to say about that antagonizing the great element of the people because of being deprived of the right to vote on that subject, and thereby endangering the ratification of this Constitution?

JUDGE BARNES. I have endeavored to make clear that if only twenty-five or thirty per cent of the people agree to go out and vote for judges, why the one hundred per cent would not very likely refuse to ratify the Constitution because that privilege is taken away from them. The twenty-five per cent would go because of a sense of duty rather than because they prize the privilege. I think it can be accurately said if it were not for the political organizations putting men on the street corners

in the City of Chicago to remind people of their duty, you would not get ten per cent of the people to vote for the judges. It is the organization that really does the work. The newspapers help some, but the newspapers cannot beat the organization as a general thing.

CHAIRMAN DEYOUNG. The next speaker is Mr. Robert J. Folonie, member of the Chicago Bar, and who appears at the request of the Citizens Association of Chicago.

Mr. FOLONIE. I have had a good deal of observation of the system of voting for judges. I lived quite a while on the West side, and during my early days out there I lived with the keeper of a boarding house, and I had a very high sense of duty in voting for judges and I tried to find their qualifications and found great difficulty in finding out anything about most of them. I inquired among those whom I thought might know something about the subject, and read the newspapers diligently, and when I got all through I knew something about the qualifications of a very small proportion of the candidates who were running for the bench. I voted with great fear and trembling, fearing I would cast my ballot improperly, but after I had cast it I asked the landlord, knowing that he knew nothing about the law at all, how he got at voting for judges, and he displayed the intelligence I think of about the average voter who tries to vote with very little knowledge of the subject; he said, "I take the list of judges and I vote on them from the bottom up because I figure the bosses put the ones they want elected at the top, and I vote from the bottom up." That is a sample of the way it is done. I think the average voter who is not a lawyer does not know any of the candidates except here and there, only by chance, even by name. He knows nothing about their qualifications and the consequence is he votes in more or less of a haphazard fashion, if he votes at all. Personally, I am very strongly favorable to the election of the judiciary, but in Chicago the situation is different from the country where everybody knows the bench and the bar, knows their qualifications, what kind of fellows they are, whether they live honorably, whether they pay their debts, knows all about their family affairs, who their father was, etc. In Chicago you usually get a list of thirty-five or forty names which are all foreign to you, and as to whose qualification you cannot possibly know anything, unless you choose to take the trouble of reading the newspapers, and even if you read those they are to a certain extent confusing and you still don't know where your ballot should be cast. I am very strongly of the opinion that if the judiciary in Chicago were appointive with some sort of check by which a man manifestly unfit could be ousted or removed from office, with some adequate check of that kind, it would be a practical improvement over the present system.

The administration of the criminal law of Chicago has almost broken down of late years. The conviction of criminals has become almost impossible in cases where they have any pull; the criminal can get endless continuances. There are the constant bickerings, quarrels and threats held over judges, and they wonder whether they will get their nominations at the next election, what will happen to them, and nobody knows much about what they are doing, and they are responsible to no one in particular.

I don't know that I can do anything more than express a personal conviction which is pretty strong, I have talked to many voters in different classes of society on the subject, and most of them have no well formulated ideas, but there is a general feeling that the present way of doing it is wrong, even those who declare that to be a fact are not prepared to suggest a solution. I wish to urge you earnestly to give the people a chance by proposing separately, or in any way you see fit, to vote on the proposition as to whether the judiciary of Chicago may not be appointed rather than elected. The present system is not successful and the standard of the bench is very much poorer than it is throughout the country. I say that in the light of experience, because my practice is as large in the country as it is in the city, or as small, just as you like, and I believe the bench in the country in general stands very much higher than it does in Chicago. The element of personal acquaintance with the judiciary candidates, I believe to be very largely responsible for that fact. I thank you. (Applause.)

CHAIRMAN DEYOUNG. The next speaker will be Professor Andrew McLaughlin of the University of Chicago, who comes at the request of the City Club of Chicago.

Prof. MCLAUGHLIN. Chairman and gentlemen of the Convention. I am here tonight at the request of the board of directors of the City Club of Chicago, to report to you a resolution passed by the committee of the City Club that has been studying the work of the Constitutional Convention, as that committee might best do, and the problem of the making of the Constitution. The resolution as passed by the committee and ratified by the board of directors is substantially this: (I am sorry I have not the exact wording with me) "That we recommend the adoption of some system of appointment under proper safeguards of the judges of Cook county. If it does not seem wise to the Convention to establish that system, that at least the Constitution does not make it obligatory to maintain our elective system permanently, if the appointive system of some sort is not adopted." In other words the legislature should be at liberty to establish an appointive system or an elective system, and of course to introduce modifications and alterations at any time.

Now, personally, I am not entirely representing the opinion of the committee, for I have authority only to deliver this resolution, but as I have attempted to study it and interpret it, I want to say that my conviction is that the time has come to decrease the number of elective offices. I do not speak as a professional lawyer, although I am a member of the bar of Cook county, as a matter of fact. I have studied and taught constitutional history for one-third of a century, but that is neither here nor there. I am one of the plain people; you say "what will the people think about it?" I am one of the plain people and I say I would be glad to be relieved of the impossible task of determining for whom I must vote, for judges at the judicial election. I say it is an impossible task to determine with any assurance whom of the nominees I should support, and I believe that that is the opinion of thoughtful persons, and of intelligent persons, if I might claim to be one of them, in the City of Chicago, and I cannot believe there would be any strong objections to being relieved of that burden of choice.

I want to say just a word in addition about the way in which this system of electing a great number of officers came into our popular institutions. You probably know that we started out in this country with having almost all officers appointed; that the governors to a considerable extent were chosen by the legislatures; almost all administrative and executive officers including the governor, down to and including sheriffs, coroners, and sometimes justices of the peace, and that that system prevailed with slight modification, with some changes as the decades went by, until well toward the middle of the nineteenth century, and then as the result of the enthusiasm and the buoyancy and the self-confidence of what the historical students called Jacksonian democracy there came a revulsion against this system of appointment, and new Constitutions were adopted, particularly throughout the middle west and all sorts of officers were elected instead of being appointed. That reaction took place especially between 1840 and 1850, '51 and '52 and the appointment of judges was done away with, just like the appointment of the Secretary of State and Treasurer and other officers of that sort. Now, I say there was a wave of self-confidence, buoyancy and enthusiasm, the belief that the people could do anything, they did not need any guidance or direction, they did not want anybody to say how they should fill any certain position. They should determine that matter for themselves.

Now, I do not mean to cast aspersions upon that phase of development of American democracy; that is what it was, it was one of our experiences in the development of our institutions; there was something attractive about the native democracy in the comparatively simple days in the middle west seventy-five to one hundred years ago, but our forefathers put an impossible task upon the ordinary voter. We are asking democracy today what it cannot do in the selection of so many officers and particularly judicial officers. You may say that we shall not get better judges by the appointive than the

elective system. I consider it possible, but I think we shall have better judges. We sometimes get good judges now by interposition of kind Providence, if I may answer the question of how Judge Barnes got on the bench. We sometimes get good judges, but on the whole, this system makes it practically impossible to get a strong bench, whereas at least there will be a good chance of our getting a strong, active and workable bench made up of good judges if we have some sort of appointive system. We can never hope to have good officers elected to any position, if the cashiers of banks, and people who pretend to have common intelligence, do not know that their next door neighbor is running for office. You cannot have a highly efficient system when men do not take an interest in what is going on. I submit this system in all likelihood will produce a better bench and that it will relieve the future of what I have asserted to be an impossible job. (Applause.)

Mr. PINCUS (Cook). What is your opinion with reference to the present judges sitting on the superior and circuit court benches of Cook county today of the calibre of the men?

Prof. McLAUGHLIN. That illustrates the fact pretty well. I do not know, except what comes to me second or third hand. I do not pose as a lawyer, but as a private citizen who finds himself in difficulty in not having sufficient knowledge and sufficient information to be a good elector.

Mr. PINCUS (Cook). Do you mean to say you have no information?

Prof. McLAUGHLIN. I have some information, but as I say it is second-hand.

Mr. PINCUS (Cook). What is the second-hand information that you have?

Prof. McLAUGHLIN. I hear my lawyer friends speaking about the bench, I have a son who is a lawyer and I sometimes hear his comments, and that is the way in which I get my information.

Mr. PINCUS (Cook). What is that information with reference to the majority of the judges sitting on the circuit and superior bench?

Prof. McLAUGHLIN. Well, there is a great difference; I could not say what the opinion is concerning the majority but there are good judges and some that are not efficient and capable.

Mr. PINCUS (Cook). Don't you know as a matter of fact that eighty per cent of the judges on the Federal bench are selected from those judges who were first chosen by the people in the various districts in the various states?

Mr. McLAUGHLIN. No, I don't know that; maybe so, but I do not know.

CHAIRMAN DEYOUNG. The next speaker, gentlemen of the committee, is a member of the Chicago bar who appears in behalf of the Chicago Association of Commerce. This great organization representing so much of the energy of Chicago has also a lawyer section, and the representative of that association is here tonight. He is an active practitioner and has been for many years in Chicago an honored member of the bar. I take pleasure in presenting Mr. William T. Alden. (Applause.)

Mr. ALDEN. Mr. Chairman, gentlemen of the Convention. During the last two or three weeks I have had occasion to talk to a good many lawyers and a good many citizens on this question, and I have not found a lawyer in Chicago, and my remarks will be confined entirely to Cook county, I have not found a lawyer in Chicago, who has not said that our present system of selecting the judiciary in Cook county is unsatisfactory and some have said it is utterly intolerable. Seventy-five per cent at least of the people I have discussed this question with say, "Yes, I am in favor of the appointive system of selecting judges in Cook county, but the people are not in favor of it." I challenge that statement. I believe the people of Cook county are in favor of it and would be in favor of it if they knew the facts. It is truthfully stated that our present system is unsatisfactory and the results intolerable. It is believed that it is the duty of this body in drafting a Constitution to give some kind of a system that will be satisfactory. It has been demonstrated it is believed in Cook county that the people do not select

the judges; you want to bear in mind it is said we have an elective system, but we have the appointive system in Cook county today. It is also said that any system that is adopted other than an elective system will defeat the Constitution. Several lawyers have made that statement to me and argued it with considerable force, and I have heard a great many people say that if the I. and R. is not put into the Constitution, that is going to defeat it. A great many people say that if it is put in, it will defeat the Constitution. If this Convention listens to all the ideas that are promulgated by different organizations and different views, your Convention will not get anywhere.

As your chairman has said, I bring a message to you from the Association of Commerce. I am a member of one of the committees of the Association of Commerce, although I was not active in having the Association of Commerce take up this question for consideration. However, the question was taken up with the Association of Commerce; I do not think it was argued to a great extent before the executive committee of that body which is composed of fifty or sixty men, which is a representative body of the organization; it was taken up by that committee and the committee voted unamimously for this resolution, which becomes the recommendation of the Association of Commerce. That association is composed of between six and seven thousand leading business firms and organizations of the City of Chicago and it has a wonderful influence whenever it speaks on any public question. I know from personal experience it commands respect in the Congress of the United States.

This is the resolution that was adopted by the Association of Commerce: "We recommend to the Constitutional Convention the adoption of a system of appointment adequately safe-guarded for the selection of the judges of Cook county." I do not think there was any special propaganda or any special argument addressed to the executive committee of the Association of Commerce other than perhaps the circular letter of the Citizens' Association, which I believe was sent to the members of this body. Personally, I am in favor of Proposal No. 56 for the selection of judges in Cook county. I think it will be conceded by the members of this body, many of them lawyers from Cook county, that the system we have now is a failure. They know that as well as I do, or any of the men who will address you this evening. I favor Proposal 56, the one submitted by Mr. Miller. The system we have now is a failure and it is a failure due to the fact that it is impossible to correctly inform the electorate of two million people, voters of Cook county, of the qualifications of sixty or seventy men who are candidates for the Judiciary. It does not take any argument to convince you gentlemen that is absolutely impossible. So, therefore, that system being a failure, what one is to be adopted? The judges to be selected by those who know. Judges are experts, they should be experts; lawyers are technically trained, they should be selected by men who know their qualifications; and this Convention should delegate that power to those men who know those qualifications, the judges of the Supreme Court and the lawyers. Any system other than the system we have will be an improvement upon our present system. We are on the lowest felloe of the wheel and it does not make any difference which way we turn. We look with great confidence to this Convention giving us relief. I thank you. (Applause.)

CHAIRMAN DEYOUNG. The next speaker is a lawyer of wide experience, both in the trial of civil and criminal cases. He was formerly an assistant State's attorney. He comes representing the Chicago Crime Commission which has been making an exhaustive study of crime conditions in Chicago. I take pleasure in presenting Mr. John H. S. Lee.

Mr. LEE. Mr. Chairman, and gentlemen of the Convention: I feel that it is a very considerable privilege to have the opportunity to address you gentlemen. I am not acquainted with all of you, but I am acquainted with the representatives from our district. They are outstanding men, men with character and qualities in whom the people of our district have great confidence. I have talked with men from different parts of the State and I

have found that the sentiment throughout the State seems to be to the same effect, so that I say with the utmost candor I think it is a privilege to be able to talk to a group of men here who represent the advanced thought and conservative thought at the same time of the great State of Illinois. Now, I would hesitate to unburden myself of anything I have to say here if I felt I was expressing my individual opinion. I think you gentlemen have great patience down here. As soon as anyone hatches an idea, he wants to exhibit it, and sometimes I think that all the ideas have not been entirely hatched, but gentlemen, I feel that we, in being down here this evening, are expressing a great body of opinion in Chicago, well considered opinion; the opinion of the thoughtful people of the community and are advancing a proposal of which they are in favor.

Something has been said about the Association of Commerce. I think there is some misapprehension on the part of some of you here about that association. That is an association of managers, an association of all the business men, a very large association of the business men of Chicago. Their activities and interests radiate in all directions, and they are not Democrats, not Republicans, but they are business men looking at all propositions that come before them from a cold-blooded point of view. They think of what is best for the community; they have what I would call an intelligent selfishness; that is, they are looking out for the State and community, because their interests are not confined to Chicago, but go out throughout the State and the United States. If you are acquainted with the association, you will find that they do not take a jump in the dark. They think over a matter, they consider it, how it is going to affect the membership of the association, and having thought over those things, they take a vote on the proposition, and they say in their judgment this proposal is a proposal that merits their approval, and they propose to stand behind it. The Citizens' Association has stood for the good of the average man; that association is not representing any class of citizens, but the average man they are standing for, and they stand for him.

Who are the Chicago Crime Commission? They are a body of men who have been forced to join together to protect themselves, as they believe, because of the intolerable condition now existing in our community. I would not like to say this out, gentlemen, because we do not want the reputation of Chicago to get abroad; it would hurt Chicago, but this body of men has been driven to the conclusion that they had to get together to protect themselves much as in frontier days the vigilance committee had to get together to protect the community from horse stealing. This commission is a body of intelligent men that believe that the present condition is intolerable and believe some other proposal should be adopted.

Now, I used to live out in Illinois and I appreciate the position of the gentlemen from down the State. Why is it that the people down in the State are for an elective judiciary? It is for this reason, isn't it, it is because they are acquainted with the quality and character of the members of the bar in their vicinity. They go to the courts, they hear cases tried; they see the lawyers in action and they watch the cases and know the results of the cases. You go down the streets in any town in Illinois and ask any merchant "who are the leading members of the bar here?" and the merchant will tell you. You ask about ten men and check up their answers and you will find there is a general consensus of opinion as to who the leading members of the bar are. What does that mean? It means the electorate throughout this State are acting intelligently when they vote for members of the bench from the bar, and it means this, that the local machine knows that there is an intelligent electorate checking up on their nominations, and every local machine wants to win, doesn't it? All right. The local machine knows they must put up the best man for the place from the material available in order to win out, and that is the result. That is not confined to Illinois, gentlemen, but the investigation carried on by certain members of the American Bar Association developed this fact, that in the communities throughout this country other than the urban commun-

ities or metropolitian communities, the election of judges by the people has been quite satisfactory. There is no demand on the part of the people that that system be changed, but only in the metropolitan cities it has been found that that system does not work out in practice satisfactorily. The theory is still there but the facts are wanting in this, as has been suggested tonight.

You men who live in Illinois know there are some three million people there, with fifty or sixty judges. The position of a judge is not a conspicuous position in Chicago. You can ride down on the cars in the morning with a dozen judges and you do not notice them unless you are acquainted with them, and the members of the community are not acquainted with the character and quality of the members of the bar. You ask, who is the best lawyer in town? And the man will tell you, "my lawyer is, you go down and see him." You ask who is the next, and he tells you that he does not know. In other words, the business men are not acquainted with the members of the bar. Do they go to the court? Not unless you drag them in and make them sit as jurors, or unless they are interested in some particular litigation. The result is they have not the capacity to exercise an intelligent opinion in voting for members of the bar who are nominated for the bench. What is the result? It is this: The political machines know that there is no intelligent public opinion capable of checking up the nominations. What do the political machines do? They choose some men that are very good, because we have some strong men on the bench, but their inclination is the inclination of human nature everywhere, and that is to choose the men who can benefit the machine rather than choose the men who can act for the benefit of the entire people, and that is so, and that is what the people in Chicago who know about the workings of the machine will admit.

Now, then, I was interested in this connection in investigating and finding out, if I could, what the results had been in other states where there is an appointive judiciary. It has been said that the judiciary in Chicago is not elected, and that is true. The Republican and Democratic machines name candidates who are members of their party, and I do like everybody else, I put my name opposite one candidate or the other. The only privilege I have is the privilege of choosing between nominees of two political machines. Now, then, how does this work in other states? I came upon a very interesting article that was written as the result of investigation in all the states where there is an appointive judiciary: Maine, Connecticut, Massachusetts, Mississippi, and various other states, I think twelve of them. Mr. Watkins, who is the present secretary of the American Bar Association, was one of the gentlemen who was interested in getting this information together, and it was found that in every State where judges are appointed, the results of that operation were entirely satisfactory to the bar and to the people. Now, for the purpose of checking up that investigation, I wrote personal letters to a number of attorneys in the various states, and those answers confirmed the opinion that was expressed in this article to which I have referred. The bench of Massachusetts is an outstanding bench; it is known over the country as a bench composed of men of unusual quality and ability, and so in Connecticut, and so in other states that I would be glad to refer to if I had the time to do so.

Now, there is only one State as far as I could ascertain in which during the last fifty years the electorate has ever changed an appointive judiciary to an elective judiciary, and that is Mississippi. They changed from an appointive to elective judiciary, so I wrote down to Mississippi to attorneys there, not indicating what I wanted, or how I felt or anything of that kind, to find what their views were, and I received back two replies saying that the bench since the change in the Constitution four years ago, has very markedly deteriorated.

Now then, what about this? If you have an appointive judiciary in Chicago, are you liable to get a reactionary bench? I wrote letters to several public men, among them Mr. Brandeis, now of the Supreme Court, and to

others, and they said the very reverse was true, that the appointive judiciary had been progressive and constructive, watching out for the interests of the people and protecting the interests of the people while the elective judiciary had been the judges who were inclind to be technical, who were inclined to be narrow, and who did not seem to be particularly interested in protecting the rights of the people.

The question is, can this proposal pass?

I don't know whether it can pass or not, I am not a prophet, not when it comes to a political matter, but I believe that if the people see that a method is going to be promulgated that will give to them an impartial and intelligent superior judiciary, they will be very glad to vote for it.

As has been mentioned tonight, look at the judiciary election. There are eighteen, twenty or twenty-five per cent, if the political parties get out with tom-toms and beat them sufficiently loud, they will get some persons to go to the polls. I have a suspicion that a great many people know, because the people are not fooled all the time, they know they have not any right except the right to choose as between the appointees of the political parties that is one reason, and another reason is they do not know anything about the candidates and don't know whom to vote for when they do go, so the elective franchise in Chicago, in my judgment is not something of tremendous value, that is being hugged to the breast of each man as something he should not give up, so this proposal would not take anything from the electors in Chicago.

Furthermore, if you gentlemen believe that this would weigh down the Constitution, the chances of it for success, since this is of vital importance, we suggest that you should place it in a separate proposition, giving the people throughout the State and the city the right to vote on it apart from the Constitution. You gentlemen will say "we are not interested in that, that is Chicago," but the disease that originates in the cities spreads to the suburbs, and spreads from there to the State, and a festering spot in Chicago will be the originating place from which the trouble will spread further, and you are all interested because you are in the same boat with us, and you should help us and we should help you. That is the way I feel about this, and that is the way I believe, and that is the reason why these associations have backed this up, and that is the reason why there are so many persons in favor of this.

That is about all I care to say. I thank you very much for permitting me to speak to you. (Applause.)

CHAIRMAN DEYOUNG. The gentleman who will next address you is not only a lawyer of wide experience in court, but his contributions to legal literature have been important. He is a public-spirited citizen who is always willing to do more than his part. Gentlemen, I take pleasure in presenting Mr. Albert M. Kales.

Mr. KALES. Mr. Chairman, and gentlemen of the Convention: I hope you will pardon me if at this late hour I speak with a directness that perhaps I would not have employed earlier in the evening. I would like to say this to start with: The worst thing you can do for Cook county in the way of a judiciary article is to leave the Constitution the way it is now. We are hog-tied in Chicago with the present Constitution. I know because for at least five or six years I, in consultation with other men, who would like to see something achieved, have tried to find a crack in the present Constitution by which we could do something and present some constructive program that would accomplish results, and we cannot find a crack in it, a crack large enough to drive through a program that amounts to anything. You cannot consolidate the courts, you cannot specialize the judges, you cannot change the tenure of judges and the manner of selecting them. You cannot do anything. Now, I say that the least this Convention can do for Cook county, if you leave the present article the way it is, is to at least put in that the legislature shall have power hereafter to provide such methods, such organization of courts in Cook county, and such methods of selecting and retiring judges and such rules of practice and procedure as it may prescribe. That is the least you can do. If more is to be given to Cook

county in this respect, I certainly recommend the program which has been put forward by the committee of which Judge George A. Cooke is the chairman. Without going into any of the details, the great point of difference between that plan and the plan presented by Mr. Amos Miller is this question of the selection and retirement of the judges of Cook county, and that brings me to the principal subject of the discussion this evening.

Shall the judges of Cook county be elected, or shall provision be made according to Mr. Miller's plan for their appointment on the recommendation of the Supreme Court and by the Governor with the submission of their names to the electorate every six years? I am down here with the other gentlemen who have spoken to say a word in favor of the latter plan, not only in favor of it in general, but in favor of presenting it to the electors of the State of Illinois when the draft of the new Constitution shall be presented to them to vote upon. Now, the reason in support of this proposition rests on a pure question of fact, and that is this: that the judges of Cook county have not been selected by the people for the last twenty years and are not now selected by the people of Cook county. The man who attempts to talk about the sacred rights of the people of Cook county to elect judges is resting his proposition upon an absolutely false premise. There is no such thing in Cook county, there has not been for at least twenty years anything like the election or selection of judges of Cook county by the people. I am moved to say that that sort of talk is bunk and the person who rides that wagon is in the bunk wagon. It does not exist, as a matter of fact, and the wiser a man is politically the more clearly he knows that to be a fact. In the first place anybody knows that in a district of eight hundred thousand voters there can be no such thing as the election or selection of judges by the electors; there is no such thing as the great body of electors getting together and by some mysterious process concentrating their attention on people whom they know would make good judges. It is an absolute impossibility and I may say an absurdity. The result is that the naming of judges has drifted inevitably—it is absolutely inevitable and necessary under the circumstances, that the naming of judges in Cook county should drift into the hands of the leaders of the county central committees of the two most prominent parties. They are the men who have the responsibility, if you please, of determining who shall be nominated, and they discharge that responsibility and I am frank to say that they frequently discharge it with great credit to themselves and advantage to the community. As a matter of fact, I am prepared to say that the Hon. Julian W. Mack was originally appointed to the circuit court of Cook county by Billy McLaughlin, and I know George A. Carpenter was originally appointed to the Cook county bench by Fred A. Busse. Busse's organization was paramount at that time in Cook county and in the City of Chicago and he picked out George A. Carpenter because he admired and liked him, and he was always proud of the fact that George A. Carpenter was one of the best and most popular judges of the circuit court of Cook county. Those appointments were good appointments. Every man who is politically wise in Cook county can name excellent men who have been appointed to the bench in a manner similar to this, but the fact remains that is the way in which the judges in Cook county are selected, and I venture to say I can go before any coterie of people in Cook county, including the Hod Carriers' Union, and I can convince them that is the fact, and once this issue is presented to the people of Cook county and their attention is concentrated on this question of the selection of judges, you will find that the people will respond to the proposition that the judges in Cook county are appointed and that they have to be appointed and there is no political machinery on earth that will prevent the appointment of judges in Cook county, and the only question is, what is the best method of appointment?

The appointment by political party leaders when it is conspicuous has in many instances resulted in good appointments. I would rather see appointments in Cook county made by the leaders of the county central committee alternately than I would to have any non-partisan ballot

or primary, which as a matter of fact, destroys the only responsibility of the party leaders which now exists. But when all is said and done the appointment of judges by the leaders of the county central committees of the respective parties is a dangerous one; it is not the best one, because in the long run, spread over a period of a generation there are times and circumstances when as a matter of fact weak men, men not qualified to the best extent do get an appointment from this political source, and nobody knows about it because it is not conspicuous. These party leaders are not always interested in the administration of justice and their actions are not conspicuous but covered over by this bunk about the judges being elected by the people, and this method is not as good a method as we in Cook county are entitled to. We are entitled to ask this Convention to consider the method of appointment that is beter than the one we have, and that method of appointment to be better must be more conspicuous, by an authority more interested in justice than are the respective party leaders in Cook county, and it should be a method of appointment over which somewhere, sometime the people have a control. Now, the plan which has been advanced by Mr. Miller answers those requirements better than any other one I know of.

The appointive power by the Governor from an eligible list presented by the Supreme Court is certainly conspicuous; it is legal, it is conspicuous and so far as the Supreme Court and the Governor enter into it, it is by an authority which is interested, vitally interested so far as the Supreme Court is concerned, in the administration of justice, and furthermore it is subject to popular control in two ways: the judges of the Supreme Court, especially those three who are to come from Cook county are subject to election; true, election at very considerable intervals but they must answer for their stewardship and for this responsibility in the naming of judges for Cook county. Then, too, Mr. Miller has provided for the submission of names of appointive judges to the people once in six years; the people may say whether this judge be continued in office. You could not have anything more than that. That is what we have now in the present system of election every six years, that is all the people do. They have a chance to throw some man out that they do not like and fights have been made on single judges because of something in their record; so Mr. Miller has provided for the power of the electors over the judges by presenting their names, with the question "shall they be continued in office?" I say that is an improved method of appointment for the judges of Cook county, and that is all I can say. I cannot predict, I am not a prophet any more than Mr. Lee is, and I cannot say this will surely produce more eminent men, but I believe it will, because I believe that judged by the proper principles it produces a better and sounder method of appointment and in the long run must therefore produce a stronger and better class of judges as a whole. Of course, I know that politics will enter into the consideration of who shall be appointed, it could not possibly be otherwise, but that element is lessened just the moment your appointing power is legal, conspicuous and subject to the electorate, who are vitally interested in the due administration of justice.

Gentlemen, I have not more to say other than to express these few words which I have had on my mind for five or six years, and I assure you that I esteem it a great privilege to be allowed to address this distinguished body and to say to it, directly and from the shoulder, things I have thought and have had on my mind for a considerable number of years past. I thank you for your courtesy and attention. (Applause.)

CHAIRMAN DEYOUNG. We will conclude this hearing, gentlemen, by hearing from Miss Edith Rockwood, who appears in behalf of the Woman's Civic Club of Chicago, which I am informed has the largest membership of any woman's organization in the State. Gentlemen, I take pleasure in presenting Miss Rockwood. (Applause.)

Miss ROCKWOOD. Mr. Chairman and gentlemen: I have only a few things to say because I am not going to attempt to repeat the arguments that have been given here tonight. The reason why the Woman's City Club exists is because the four thousand women who belong to it want to

vote intelligently. In our experience in the last ten years bringing before the women the various matters which were up before the voters we have found this—that women do not want to vote on any candidate unless they have a fair chance of finding out what sort of man he is, how adequately he is able to fill the position for which he is running.

In considering this question of the judiciary the Woman's City Club finds that it is not possible for the voters in Chicago and Cook county to form a just opinion of the judges who may be candidates for election, because of the difficulty of acquaintance, in a metropolitan community, and for that reason we believe it would be a great improvement if the judges were appointed.

In considering the various proposals the Woman's City Club feels the appointment by the governor on the recommendation of the Supreme Court is probably the safest method of appointment which has been proposed. We have not any final opinion on that question of appointment, we only want it carefully safe-guarded.

There is one other thing, one question brought up tonight that I wish to speak of briefly; in the proposal which is before you there is a provision for assistant judges. We think that a judge should be a judge, because if you make assistant judges, the tendency will be for the litigants in that court to feel they are getting second-rate judges. That may or may not be true, but every man who comes to court should feel he is getting first-class attention. His case however small the amount involved or however relatively small to society the matter may be, to him it is important and he therefore is entitled to the best judicial service which the State can offer. That is all, I thank you. (Applause.)

Mr. DAVIS (Cook). The committee in session this evening has listened to distinguished gentlemen and Miss Rockwood, who have given us very valuable information which may serve as a guide in framing up the judicial system. May I take the pleasure in moving that a vote of thanks be extended to the gentlemen and Miss Rockwood for their appearance and for the instructive handling of the matter which was given to us this evening?

(Motion carried.)

Mr. HULL (Cook). I move the committee do now rise, report progress and ask of the Convention, leave to sit again.

(Motion carried.)

(President Woodward presiding.)

Mr. DEYOUNG. The committee which had under consideration the proposal referred to the Committee on Judicial Department, begs leave to report progress and asks leave to sit again.

(Report adopted.)

Mr. DEYOUNG. I move the Convention do now adjourn.

(Motion carried.)

THE PRESIDENT. The Convention will stand adjourned until tomorrow morning at ten o'clock.

Whereupon the Convention took an adjournment to Thursday, April 22, A. D. 1920, ten o'clock a. m.

THURSDAY, APRIL 22, 1920.

10:00 o'Clock A. M.

The Convention convened pursuant to adjournment.

The President in the chair.

Prayer by the Chaplain.

THE PRESIDENT. The Journal of Friday, April 16, 1920, was placed on the desks of the delegates on yesterday and is now subject to correction. There being no corrections proposed, the Journal of Friday, April 16, 1920, will stand approved, and it is so ordered.

Whereupon the Convention proceeded upon the order of special orders of the day, reports of standing committees.

THE PRESIDENT. The Committee on Rules and Procedure submit a report:

COMMITTEE REPORT.

The following committees having made reports with committee proposals recommended by said committees, respectively:

Committee on Public Works and Improvements recommending Proposal No. 354.

Committee on Miscellaneous Subjects recommending Proposal No. 357.

Committee on Miscellaneous Subjects recommending Proposal No. 358.

Committee on Education presenting majority and minority reports with Proposals numbered 359 and 360, respectively.

And said reports and proposals having been, pursuant to the rules, ordered to lie upon the table and be printed.

Your Committee on Rules and Procedure recommends that the said committee reports and proposals be taken from the table and placed on the General Orders for consideration in the Committee of the Whole.

(Report adopted.)

Whereupon the Convention proceeded on the order of first reading of proposals, second reading of proposals, motions and resolutions, unfinished business, and general orders of the day.

THE PRESIDENT. Having reached the order of business of general orders the further consideration of the report of the Committee on Suffrage will be in order. The Chair designates Delegate Cruden to act as chairman of the Committee of the Whole, and the Convention will now resolve itself into the Committee of the Whole for the purpose of the further consideration of the report of the Committee on Suffrage.

(Chairman Cruden presiding.)

CHAIRMAN CRUDEN. Gentlemen, the committee will please be in order. The Secretary will now read the minutes of the meeting of yesterday.

(Minutes read by the Secretary.)

CHAIRMAN CRUDEN. Gentlemen, the question we have now is whether the amendment offered by Delegate Sneed be adopted.

Mr. LINDLY (Bond). The amendment, please.

(Secretary reads amendment.)

Mr. SNEED (Williamson). Gentlemen of the Convention. I trust this morning when I arise in support of my amendment that it will not again be the signal for the recurrence of the committee's report.

I believe, gentlemen, that this Convention should go on record as indorsing the principle of compulsory voting. I believe the time has come in the history of our State when the citizens of our State must agree to accept

the responsibility with the rest of the citizens who go to the polls and exercise their right of suffrage in the various elections, and in offering the amendment last week which stirred up so much sentiment with reference to this matter, it seemed to me at that time that the amendment submitted should be applied to section one. However, objections were raised by some who said that this should be left to the Legislative Committee. Objections were also raised that the matter should be left to the General Assembly. Others, while agreeing with the principle of the amendment, said that there was objection to the penalty and also to the words "legal excuse." Yesterday evening in the discussion here relative to Mr. Miller's proposition on the judiciary, Judge Barnes when questioned by Judge Wall said, "if it were not for the various political organizations keeping their representatives on the street corners and elsewhere on election day, the voters would not vote as they should and they were not interested." Gentlemen, I hold that this is a bad situation. I say for our citizenship to drop into the position of indifference relative to our State Government is a serious condition indeed. I hold that the citizens of our State should be interested in every question that affects them and the State of Illinois to the extent that they should acquaint themselves with the facts relative to those questions and go to the polls and exercise their right of suffrage for or against every proposal or measure.

Yesterday in discussing the amendment relative to conscientious objectors, on first thought my intense love for my country as during the war, led my conscience to say to me that there should not be permitted in this country men who share its protections and are protected under its flag, the greatest insignia of any country in the world, who do not feel that they were responsible to our government in bearing arms. It reminds me of a conversation I had with an ex-service man last week, a man who has fought in several countries under two flags, and this is what he said: "No matter where you may be or what may be the circumstances for your being there, when you see Old Glory on the territory or land where she flies, jump on that land as you go by, swim to it if need be, any way to get there, but grab hold and hang on for it is the best country in the world." Gentlemen, those are my sentiments.

Now, gentlemen, there is another question, that the activities of the different representatives of our Government and this State are such that they should be common knowledge to each and every individual citizen of this State. Some have said that it is impossible to force America to do her duty. Permit me to call your attention to the Draft Law for one moment. There was considerable antagonism to the Draft Law when it was first offered, as they proceeded to the raising of an army to fight for this country, but gentlemen, after it was put into practice, and after the army was raised, we all became enthused and said we had a duty to perform to our State and to our Nation. I hold that the questions which affect us today are quite as important, and I also hold as long as we perform our citizenship and continue to go along unconcerned as to the questions which affect us today, we are dropping into a channel which is dangerous to our Nation.

I presume there are men in this Convention this morning who feel to pass a law which will make possible the bringing to the polls of our citizens, or the losing of their rights of franchise, that we are doing something un-American. I submit to you that our law and that our representatives who represent us in the various offices of the State, and their activities, are just as great, so far as their expression is concerned, so far as the danger of government is concerned as the raising of an army during a war period. Some may say that is far-fetched. Gentlemen, where you will find men who are interested in the affairs that concern them, you are going to find men who are acquainted with those affairs to the extent that they are going to express themselves in a manner that cannot be misunderstood.

I do not know, but it strikes me that on yesterday evening that the point made by Judge Barnes in saying that a body of men had to be placed upon street corners in wards and in communities in order to arouse

enthusiasm to get men to go out to vote is the best argument for this amendment that could be produced. I say to you men this morning, I believe if our citizens are forced to act on these questions by going to the polls and voting for or against these men or their issues it is going to inculcate in their minds a great desire to know why they are forced to do this, a great desire to know more about the questions, more about the government and our affairs in order that they may pass judgment upon those in a practical and intelligent manner. (Applause.)

Mr. CORLETT (Will). I hold no brief, Mr. Chairman, for the citizen who fails to take an interest sufficient to induce him to go and vote on election day. I realize that if all citizens took an interest in political affairs and in the election of their officers, it would indeed be most desirable, but this is a question of compulsory voting, irrespective of the reason why people do not vote at one election or another. It has been urged on the floor of this Convention that because the people of this country willingly and very properly complied with the provisions of the Selective Draft Law as a war measure, that they will also accept regulations regarding compulsory voting in the same patriotic spirit. It is true that the people of this country not only accepted the regulations of the Selective Draft Act, but they also accepted, as a war measure, regulations of almost all of their habits of life. We had meatless days and wheatless days, and our habits of life and even thought were ordered by government regulations, and as a war measure we accepted those regulations just as patriots should, but, gentlemen of the Convention, this is force, and although the war is over we seem to have fallen into the habit of thinking in terms of force, and force seems to be the order of the day.

One other matter I wish to call to the attention of this Convention is that in 1916, eight hundred seventy thousand three hundred ninety-six women voted for President of the United States. There were cast for Governor of this State one million three hundred twenty-two thousand two hundred forty-four votes, and if there were at that time as many women twenty-one years old and upwards as there were men, there were some four hundred fifty thousand women in the State of Illinois in 1916 who did not vote. And now, gentlemen of the Convention, remember this, that men have told women up to the present time that politics and voting are affairs that belong exclusively to men, and now we are about to give women the ballot, at the same time we are giving them the ballot we are confronted with the proposition of placing those who refuse to use it in the class of criminals, or if not in that class we are branding them as being delinquent in the discharge of what will become their duty, something which men have insisted up to the present time is that with which women should have nothing to do. I submit, gentlemen of the Convention, that it is absolutely wrong for this Convention, in which the women of Illinois have had no voice, when giving the ballot to women to provide that women should be obliged to exercise it after they have been denied that right all this time. Gentlemen of the Convention, if it were possible to correct every weakness of human nature, if it were possible to correct every fault of character, if it were possible to usher in the millenium by righting everything by the Constitution or by the statute, then all you would need is just one Constitutional Convention or one General Assembly that would order all the habits of life of the people and we would have every problem solved.

I am very much against the proposed amendment. I am not one of those who believe that you can by legislation force the people of Illinois, or any other State, to do their civic duty. It is a matter that will require time, it is a matter of education. It is a matter of arousing the public conscience to a sense of its civic duty, rather than a matter of legislation, whether it be constitutional or legislative in its nature. I am against this amendment because it is a matter of attempting to force the citizens of the State of Illinois to do that which they are not likely to do intelligently if coerced; I am against this amendment because I am against government by force and coercion. I hope it will be defeated. I thank you gentlemen. (Applause.)

Mr. DUPUY (Cook). I think before proceeding further with the discussion of this matter I would like to state what I understand the proposition to be; I recognize the fact there is very much force in what the last gentleman has said to us. I am, nevertheless, strongly in favor of this proposition in a proper form. The charge that it is an attempt to force the people of the State of Illinois is without foundation, in my opinion, if it shall be adopted by the referendum vote of the people in adopting this Constitution. I can well understand why the legislature may hesitate to undertake a system of this kind. I want to say at the outset I regard this proposition as highly experimental and I am willing and anxious it should be treated so by this Convention.

We do not know how it will turn out, whether it will be a success or a failure, and I want to say by way of explanation of what I want to see undertaken that it should be in a separate proposition, voted on alone, not as a part of the Constitution, and it should also go further and contain a proposition that after a sufficient time has elapsed, it might be five or ten years, that the legislature of the State of Illinois may annul it. If it proves a failure we will get rid of it easily; there will be no difficulty about amending the Constitution if it be put in that form.

I want to say further in this connection and as a preliminary, I will not vote for this compulsory system of voting unless we shall adopt what is already reported in favor of by the committee, namely, a system of one election a year. We have adjourned over three Tuesdays in succession because there were so many elections being held, one here, one down State and one in Chicago, and the people are tired of elections and I think that is one reason for their great indifference, apathy, and inattention to elections, because we have so many of them. But if we should adopt this system by which we have only one election a year, then make that day a holiday, there is no excuse why every man and woman should not go to the polls and express their opinion through a ballot on that day.

Another suggestion: We say we should not force the people of Illinois to vote. If the people adopt it themselves, that is not done. We have a compulsory system of education. What is the reason we educate? My money is taken to educate the children of some other man, and some other man's money is taken to educate my children. What is the reason? It is that they may discharge the duties of citizenship and make the government safer and better for having the education and for spending this large amount of money. The man who has received the education straightway goes out and neglects his duty to the State of Illinois by staying at home when he should go to the polls and vote. I think we have a right to call on those men and women who have been so educated to exercise their judgment, their good sense in favor of or against the measures that come before us from time to time, and it seems to me it is only fair that the person who is fitted for citizenship at the public's expense, should respond to the duty that rightly rests upon him for the exercise of the voting privilege.

I have received a letter from which I want to read a paragraph. It is from a man I do not know. I do not know his standing in the community, or what he represents, but I think it is fair to assume he represents the judgment of a majority of the people: "That it is the duty of everyone qualified to do so to vote at every election in which he or she has the right seems clear. If any person does not perform such duty properly, fully and conscientiously, or neglects so to do, they should be disfranchised. None should have or retain the franchise who do not appreciate the value of it sufficiently to exercise it without being carted to the polls and paid for going. On this proposition every one without a single exception of the many I have interviewed on the subject, agree. This proposition will probably be opposed by the demagogue and professional voter who profit by the present system. You have started something. That you may succeed is the wish of every one interviewed by me on the subject." I suppose the letter reflects the opinion of a great many men, and I am anxious to see this system tried. I am not willing that it should go pemanently into the Constitution because it is too experimental, but I think by putting it out as a sep-

arate proposition, if we agree to have one election a year and no more, that the burden will not be unduly heavy, and the public benefit will be very great.

While I am not in favor of the amendment pending, I am in favor of a proper safely-guarded system of compulsory voting.

Mr. HULL (Cook). I would like to ask the gentleman whether he is speaking for this amendment or against this amendment, or whether he is just making a speech. I am unable to determine.

Mr. DUPUY (Cook). I will take very great pleasure in answering the question. The range of discussion has been on compulsory voting. This is one feature of it. It is not going to be turned down lightly in this Convention, I take it, because the very proposition now under discussion relates to only one feature of it. I am not speaking merely for the pleasure of making a speech, I have a very deep conviction on the subject. I think it will be a great mistake if this Convention should turn down this question without giving it respectful consideration, and I am trying to address myself to the general subject of compulsory voting.

Mr. FIFER (McLean). For the benefit of my friend from Cook, I will say at the outset that I am opposed to this amendment, (Laughter) because I believe it is a doubtful and even dangerous experiment. It is an object greatly to be desired that everybody should vote, and if it was at all possible to do so I would be greatly in favor of some law that would compel them to vote. It has always been my belief that the State should make the pathway of the citizen from his home to the ballot box as straight and as smooth as the law can make it. But the duty of the State does not stop there. It should see to it that the ballot of the citizen is honestly and corrected counted after he has placed it in the ballot box, and that a correct return is made.

Now, it is proposed by the amendments to go a step farther and penalize the voter in case he wilfully neglects to cast his ballot on election day. It has been proposed that he shall be penalized by being disfranchised for a number of years. That would aggravate the fault that the amendment is designed to correct. If he is to be penalized, how is he to be penalized? If any voter of Illinois does not inform himself to the extent of being interested enough in any given election, in my judgment it is just as well that he does not vote. His vote would not be a well-considered and intelligent one, and he might vote against the candidate or the proposition, as the case might be, which he afterward on consideration might favor. Now, if he is to be penalized by being disfranchised or by money consideration, who is to be the judge whether he willfully or necessarily kept away from the ballot box on election day? You would have to have an election machinery in my judgment in order to correct any mistakes that might have been made by reenfranchising or remitting the fine; you would have such an election machinery that would break down under its own weight.

Our friend from Shelby (Dove) has read reports from Belgium on the exercise of the elective franchise. There is no sort of comparison between Illinois, or this great country of ours, outside of Illinois, and the little state of Belgium. Belgium's territory is less than one-third the size of Illinois. Its population is about the same as that of our own State. They are not a great commercial people. They have no arteries of trade running out thousand and thousands of miles across the continent like we have. They are a home-staying people and it is easy always or generally, for them to exercise the elective franshise. If I remember the history of that country correctly, everybody does not vote. I may not be correct on that, but I believe they have a limited franchise while here we have a universal manhood suffrage and we are soon to strike out the word "male" and admit women, and then God knows, there will always be enough votes to make a quorum on any election.

Now, you take our people; here are these great railroads running out through the states; thousands of railroad men must necessarily be away from home. Belgium, as I take it, has not a quarter of the elections we have. We have had four elections in my town this spring, and there are

four or five to come before the year ends. There is a proposition before this Convention to limit the number, of which I am in favor, but I am opposed to limiting it to one election a year, for this reason: One of the best means that the American people have to be informed on public questions is on election day. If you had one elction the people would lose interest.

Suppose you would have only one election in ten years. The people would forget all about their institutions, they would lose interest, so I am in favor always of a reasonable number of elections, but I do think we could greatly limit the number of elections.

Now, it is a great privilege to vote always esteemed so; there was the colored race wanted the right of suffrage, willing to fight for it almost; women have been struggling for the right of suffrage for one hundred years in this country, and we must rely upon that. The pride of citizenship, the dignity that it confers upon its citizens to step up to the ballot box where his vote counts as much as the greatest in the land, and we cannot pass any law that will work effectively whereby he would be compelled to vote. You would by this means create an antagonism and dislike of the franchise, and those that are coming to this country, many of them, when they see the hardship and difficulty imposed upon the elector, might hesitate and refuse to become a naturalized citizen of the United States, which we all so much desire as soon as they come to our shores. Now, I believe it would be a great mistake to undertake to penalize anybody for staying away from the polls. They could be restored, of course, but what would be the use of disfranchising them. then going through the silly farce of enfranchising them again? Why, the voter would not know whether his right to vote was an asset or a liability, and you would bring the whole thing into disrepute, in my judgment, and therefore, Mr. Chairman, I am very much opposed to this amendment, and therefore, I very much hope that the proposed amendment will be defeated. (Applause.)

Mr. ELTING (McDonough). Mr. Chairman, and gentlemen: As yet, I have to be converted to the idea of compulsory voting, and I believe the right of franchise is one of the greatest privileges of the American citizen, but how he shall vote and when he shall vote up to date has been left to the citizen, his God and his government. We have laws penalizing men that try to bribe the voter, or compel him to vote contrary to his will, and that sort of thing, and I would not want to assist in classifying the citizen who should fail to vote with the class that is mentioned in this section seven. As has been well said by the speaker who preceded me, it would be wrong to penalize a man for failing to vote. That is contrary to our American traditions and institutions. Men come to this country that are not natural born, they come here because they love our American institutions, and they vote and support our government because they love our government. I think it would be very wrong to say to an American citizen—"Because you failed to vote at a certain election, you should be penalized; you should be classed with the criminal, people who have grossly violated law." Up to date the right to vote has been a question that the individual voter should decide for himself. I am opposed to this amendment and hope it will be voted down.

Mr. DAWES (Cook). We are now considering an article which, when adopted by the people, will confer the unqualified right to vote upon nearly two million citizens who have not heretofore enjoyed that right; and the fact that we are considering the process by which the right is conferred, emphasizes in this discussion that the right to vote is not an inherent right of the citizen. It is conferred upon the citizen by government for the interests of society. Government in the past has conferred this right upon selected citizens, and empowered them to act as the representatives of the people in carrying out the will of the people. The right to life, liberty and the pursuit of happiness is enjoyed by all, but the consent of the governed has heretofore always been expressed by a part only of those who were governed, namely by those who were selected by the government to act as the representatives of all the people. We would not endure it that a man should be elected to represent the people in the legislature and pay no attention to the duties imposed upon him thereby. Is it a matter of less

moment that we should regard with indifference the neglect of the duty of representing the people in their primary political activities? We now turn aside from the immemorial practices of representative government in selecting representatives to act for the people, and confer upon all citizens the right to exercise this power and authority, and we may well pause to consider at this moment whether that grant should be unconditional and irrevocable, or whether we may fix such conditions, or lodge such power as might fix conditions, which would make this grant conditioned upon the proper exercise of it, and revocable upon the utter neglect of it.

If government confers, it has the right to fix conditions of that gift, and the condition does not seem to be radical that provides it may establish agencies whereby the gift may be withdrawn from those who refuse to accept it. The interests of government are now and always have been involved in the attention that is given to governmental affairs, by those who carry the responsibilities of government, and we find not only in the history of this Nation, but in all countries that have established government of the people, the utmost care in selecting those who should act as representatives of the people.

Great effort has been made at all times and in all places to fix a deep sense of responsibility where this enormous power was given to those who would represent the public. In the solemn language of the Plymouth Colony in 1671, conferring the right to vote upon such men "as were of sober and peaceable conversation, orthodox in the fundamentals of religion, and such as were possessed also of twenty pounds of ratable estate," down through all the grants of colonial times—to freeholders, to taxpayers, to householders, to those who would take the oath of fidelity, we see the persistent conception that government was conferring a right and not certifying to a right that already existed, and that in conferring that right, it ought to take the utmost care to lodge with that authority the proper sense of responsibility, and whether that selection was based upon the possession of property, or upon being the head of a family, or upon such evidence of good character as would be afforded by religious conviction, the effort was always made to place and keep that power in the hands of those who would exercise that privilege, seriously and responsibly. This day we turn from that method of selection. In another day we had the opportunity to select those who may represent the people, and on the day that it is conferred upon all the people, we may well ask ourselves to give serious consideration to the question as to whether it is possible to fix a responsibility where we give authority. Is it not possible that we may fix a test of responsibility and establish such a test upon conduct rather than upon probable conduct based upon interest? Is there anything so radical in providing for and lodging the power whereby the right may be withdrawn that is ignored and utterly neglected? We are at the cross-roads. We must walk down an untrodden path. We are conferring upon all the people all the authority, and what we do must be done without precedent. We face a situation which our fathers never faced.

We have suffered more from the neglect than any other abuse of the voting privilege. Indifference on the part of a portion of our voters has brought to us greater ills than any other one abuse. Indifference is the foundation upon which the power of the boss has been built. It is the source of corruption, the origin of all sorts of fads and follies. Those men who have neglected their rights and privileges of citizenship may be good men but they are poor citizens, and it is our belief that if they could be made to exercise their responsibility, they would seek to be better citizens, and we would make them good citizens. The power of the boss was builded on the comparatively small number of men who do vote as compared with those who can vote. Shall we upon one day double the number of those who can vote without giving consideration as to whether there may not be some means of increasing the number of those who do vote habitually? If there is a governing class that I could believe in, it is that class of citizens who attend to their civic duties punctiliously, habitually, and seriously, and

who never neglect them, and I would have little shame in withdrawing temporarily from another class any participation in government namely, from that class which habitually, persistently and utterly neglect their primary duty of citizenship. I did not rise to my feet to advocate the precise amendment that has been submitted today. I should not like to see the words "legislature shall pass laws providing for the disfranchisement of those who neglect the voting privilege," but I should like to see authority given to the legislature that it may pass laws providing for the temporary disfranchisement of those who neglect the voting privilege. Now, it may not seem to be a punishment that fits the crime, to withdraw the right to vote from those who have withdrawn themselves from the voting privilege, but the idea of this is not to fix a penalty upon the basis of retributive justice but to fix a penalty whereby notice may be given to all people that here is a fundamental right of citizenship which it is their duty to exercise, and it is my conception that those who have brought much trouble in the past by neglecting their duty, would in the future act upon the other basis.

There is no privilege that is more enjoyed by the average American citizen than talking politics. All citizens will talk all the time on all questions of a political nature, and I think that to be deprived of this privilege would be a penalty far heavier than the legislature would be likely to impose. Can you imagine a man disfranchised by the utter neglect of his political duties daring to open his mouth on any political question? He would be met by the rebuttal of his own impotence, and the political eunuchs would not find their audiences in any corner grocery store; it is from impulses such as these that I hope to see judicious and careful legislation that would correct this condition of public sentiment, which in my judgment has brought so much trouble in the past in the State of Illinois. It behooves us to give careful consideration to the subject matter that has been presented to us today, realizing that whatever we do we must walk down new and untrodden paths, and whatever action we take, must of necessity have the element of experiment in it. (Applause.)

Mr. TODD (Peoria). I appreciate, gentlemen, I am not a talker, and I am not going to try to persuade any man to change his ideas with reference to this question. I refrained from talking yesterday because I felt the weakness of myself in making the effort to influence you. I was charged by a member of the Committee on Suffrage of a neglect of duty in not informing this committee of what took place in the room of the Suffrage Committee when certain questions were presented, and I rise now for the purpose of informing the Committee of the Whole that the question of compulsory voting was before that committee and was thoroughly discussed from every angle, both from the angle of the advantage that might be brought to the State by compulsory voting and from the question of how practical any of these proposals would be in carrying out the desired effect. The majority of the Committee felt that the legislature at this time would perhaps pass a law which would impose a penalty in the nature of a fine upon a person who refused to vote but that they could not disfranchise a man unless this Constitution so provided. We disposed of all the questions of compulsory voting, except the one that is now before you, on the theory that the legislature could take care of the matter. We disposed of this question on the merits alone, and that is, in the judgment of the committee it would not be advisable to undertake to disfranchise a man because he did not vote. The gentlemen from Cook who has just preceded me in an effective talk appealed to you and referred to the grant that was given by the government to the people. He seems to have forgotten the fact that the king granted the charter to the settlers who came over here in 1600, and the people who lived in this country from that time until the revolution were limited by rights granted them by the king. They only had such rights as the king gave them, and the king gave those people right to govern themselves subject to certain control or veto retained by him. At the time of the revolution, the people of the thirteen colonies threw off the power and the limitation of the king and took to themselves all the powers of government, if I am correctly informed, and that the government that existed in this country

was only such government as the people had created and only had such powers as the people gave it.

Now, to me there are two propositions that the people should retain, and one of them is to fix the qualifications of the men who shall govern them, and this committee yesterday lifted that bar and gave to the legislature the right to disqualify every man sitting here from holding office in the State of Illinois, and today you are asked to give the legislature the power to disfranchise every one of us if we do not comply with the law that the legislature has passed, and I am utterly opposed to that proposition. I think if the time has come in this State when the right and privilege of the franchise has been changed into a duty to be enforced by law, it is time to confer upon a king or some other central power the right to govern as he sees fit, and I stand opposed to that and urge you gentlemen to oppose this proposition, I belive we should stand on the plan submitted by the committee, and that is, conferring only on the legislature the right to disfranchise a man who has violated the criminal laws of this State and committed a felony. (Applause.)

Mr. SHUEY (Clark). I was very considerably impressed with the remarks that were made by my friend from Cook county (Dawes) on this subject, but as yet I have not been thoroughly convinced or converted to the idea of compulsory voting. I am not a member of the Suffrage Committee and I did not know this matter was being discussed before that Committee, and when this amendment was offered on last Wednesday, I have to confess to you I was considerably suprised as I looked into the faces of the various members of this Convention who were so earnestly discussing this proposition, and when my friend from Shelby county (Dove) read at such great length from the authorities on this subject, as he did, I was thoroughly convinced he was really in earnest. After going home and talking with some of my people about this matter, and thinking it over, I will confess to you, gentlemen, that I was considerably atttracted by the idea of seeing four millions of people marching to the polls on election day and casting their vote. But, gentlemen, that is only a vision, it is not a reality, and I wondered in thinking about the matter if this proposal would go far enough to compel those four millions people to go to the polls whether there was any contest or not, and cast their ballot, regardless of whether or not there was a controversy or contest involved, and I saw nothing in the proposal or amendment to convince me they would not be compelled to go even on an occasion of that kind.

It has been said by several in this committee room that the poor man would have a chance if we had compulsory voting in Illinois. I cannot agree with that idea. I believe it would be a more difficult and a more serious matter for the poor man to run for office if we had a compulsory voting law in the State of Illinois than it is under the laws existing today. Those people who are so indifferent on election day that will not go and cast their vote do not care who is elected, and so a man who was well fixed financially could go to those gentlemen or to those voters, and bring them to the polls in a car and use other influences to get them to vote, would have a greater opportunity to be in their favor on election day than the man who was not so situated, and so it seems to me there can be no merit in that phase of the subject. The idea of voting has always meant to me an intelligent expression of opinion, and I would not give much for the voter's opinion who gave it no thought or consideration before he cast his ballot on a question or for a candidate. It seems to me that it is preposterous to believe that we could force the people of the State of Illinois to go to the polls on every election day and cast their ballot. It would require a vast amount of political machinery, legal machinery; it would be necessary to keep tab on every vote so you could ascertain whether or not this person had cast a vote, and a law of this kind unless you did keep track of the voters would be absolutely without any force. I think the better plan is for us to retain our law as it exists today on this subject, and through the women's clubs and organizations, and through business men's associations and other avenues, civic federations, convince these citizens of the impor-

tance of the various questions that are continually coming up before the people and induce them to interest and for other good reason, to go and cast their votes for the candidates and the questions that are up before the people for decision.

Mr. DAWES (Cook). I offer the enclosed as a substitute for this amendment, and I hope it may meet some of the objections which have been urged: "The General Assembly may pass laws and fix penalties for the neglect of the voting privilege, but not such as to disfranchise permanently any citizen."

Mr. HAMILL (Cook). I listened with a great deal of interest and no little instruction to the very eloquent talk made by the Delegate from Cook (Dawes) advocating compulsory voting. In the course of his remarks he used a vigorous and persuasive figure of speech. When by law we shall be able to restore potency to the eunuchs I shall believe by law we can make intelligent voters, but until that time comes I despair forcing by law or by penalties, an intelligent expression of opinion at the ballot box. It therefore seems to me, Mr. Chairman, that all these proposals to force an intelligent expression, and that is all we want at the ballot box, are misguided. (Applause.)

Mr. GEE (Lawrence). I rise to offer a suggestion in the face, as I see it, of very strong opposition of what I shall say. I am in favor of the principle involved in the substitute to the original amendment. All men, so far as I have heard them express themselves, have said that the people and citizens of certain age and certain qualifications should have the right to vote, and the serious question now is to compel them to exercise what we all admit is their duty to do. I do not like to find myself in opposition to the gentleman from McLean (Fifer), whose banner I followed at one time in the early part of my life in favor of the little red school house. We went down but we came up again, and today there is no man here or elsewhere in Illinois who is not in favor of the public school system. We are hearing a great deal in this Convention on the matter of education. We are doing it, gentlemen, for the purpose of bringing to the citizens of this State intelligence, and I know of no place where intelligence should be used, more potent and more needed, than in the question of suffrage. The objection has been offered that we are coercing someone. We are compelling somebody to do something. We are all living in this beautiful State of ours to which I am of the manor born and expect to die in the State of Illinois, and so far as I see it, there is no State better, and I think we should take a forwarding looking position, gentlemen, on this question of suffrage. I think we can go a step farther in the march of progress and make men that have the right to vote use it. What is the use of the vote if you do not use? If it is a good thing to use, why don't you do it? Is it because you feel so far as your personal interests are concerned, that you cannot spare the time? No man has the right to put the mantle of his own self around him and say "I care not who is elected" because I think it is the bounden duty of every man to exercise his right of suffrage on every question.

We are told there are too many elections. That is true, and the number should be reduced. I have heard it suggested that we are bringing in a great army of voters and it would be unjust to them to compel them to vote. One time I walked down in front of the white house and I saw a noble woman standing with her banner asking for suffrage. She never quit the job until she absolutely forced men, using the force of persuasion, the force of right, until now we have acceded to that and we say they shall vote. I do not fear but that upon the great questions they are competent, and will exercise their vote and will not be under the fear of being coerced to do something. We are all coerced to do a great many things. Once upon a time we got out the brass band and the horns to attract the populace to get them out to vote. Once upon a time we had the persuasive orator. Those things are fast receding from the efforts to get the voters out. Now, we are looking to the public press, sometimes right and sometimes wrong, but the trouble is, the willfulness of the men that do not want to vote. I think

we ought to put something into this Consitution for the legislature to act upon, for that thing which is such a cardinal principle of our government, upon which the foundation of success absolutely stands, and that is upon the will of the people expressed at the polls. But as it is now, we do not get the expression. If we have tried persuasion in the past, if we have tried penalizing and horns and music in the past, if we have done all those things in the past to get the voter out, and then cannot get him, then I think we should adopt a forward movement and tell him "if you don't want to exercise the privilege of voting we will put a ban on you and you cannot vote."

Mr. CORCORAN (Cook). From a practical point of view, I know from experience the reason a great many people in Chicago refrain from voting if we have too many elections. We have from four to six elections a year, and we have six or eight legislation days, and they are around every sixty or ninety days importuning the people to go to the polls. I think if section eight is passed providing for just one election, I think we will overcome a great objection to the people refraining from voting, and I think if this section was passed over temporarily, and if we pass a law for one election a year, I think the people will respond more quickly than at the present time. I move that we pass to section eight and then come back to section seven afterwards.

Mr. MICHAL (Cook). Allow me to make this observation, gentlemen: Ordinarily the people pay little attention to elections, but when matters come up in which the community is interested, you will find you need no ballyhooing, no harangueing to get the people out, and to express their opinion at the polls. That is my experience and I imagine it is the experience of every man in this Convention. Theoretically, I believe in the principle of compulsory voting. I do not think the people should stand by and let a few people control the election machinery, but practically it has been demonstrated from time immemorial that they will not participate in those things except on momentous occasions and you can never legislate conduct for the people. People do not want to be regulated in affairs they are entitled to as a natural right, to the exercise of liberty, without restriction and without coercion. For that reason, gentlemen, I earnestly hope that the amendment and the substitute involved in any way, whether it is mandatory upon the legislature to pass a compulsory act or merely directory, shall be defeated upon the floor of this Convention.

Mr. WALL (Pulaski). Gentlemen, just a few words: Something has been said here about forcing the women to vote. We are enfranchising women. They are not acquainted with politics, and therefore it would be an injustice to them to penalize them. Let us see if that principle is sound. The women of the country were nearly all suffragettes. They all want to vote and believe that they should have a voice in government, and that belief is sound. They knew the burdens of government as we have carried them as men. They are willing to assume their portion of it; they are willing to stand up and be counted; they are studying political issues now, and they are willing, or sought to be willing at least, to assume their burden in every aspect of the case that the man is willing to assume, and this principle of universal vote would spur the women onward, would increase their desire to learn more, and I assure you gentlemen, that so far as my community is concerned, that the women will turn out as the men and will vote practically the same as the men on the first ballot they ever cast.

To say we are disfranchising a great number of voters is a mistake. There are a few voters who conscientiously refuse to vote, and they will get left if such a thing is adopted until finally we will get a true expression of the will of the whole people.

Take the little Republic of Switzerland: she stood like a stone wall in the last war between the nations of the earth and never did become embroiled. Switzerland as I understand, has a compulsory system of voting. Why was she able to maintain that attitude? Because she had a clear-cut majority opinion of all the citizens in Switzerland devoted to one purpose.

America did not succeed in not becoming embroiled. We were across the Atlantic but we got into the fight.

Now, just one other thought and I am through. Complaint is made that judges in Chicago are appointed indirectly and that is the reason why they should be regularly appointed, they say. Suppose all the City of Chicago backed up by the big organizations would vote for judges. Would there or would there not, my fellow delegates from Chicago, be a better feeling and a better situation with reference to your judiciary in Chicago? It strikes me that there would be a radical change that would be for the better. These thoughts are worthy of some consideration, I think, although I admit from the speeches that have been made here that probably our most experienced and able delegates think that this is a dangerous proceeding in that it is such a radical departure from the grant of personal liberty that it may not be the best thing to do.

Mr. COOLLEY (Vermilion). It is to be hoped that the members of this Convention have not entirely lost their sense of humor. I was very much interested in the remarks of the gentleman from Pulaski (Wall) in regard to the changed condition of the women of this State. Up until yesterday, as it were, we told these women that they should be classed among those people who were absolutely denied the right of suffrage, and then suddenly we decide that they shall not only have that privilege but they must be compelled to exercise it whether they will or not. We hear much about the will of the people, and here we propose to take from a man the right to exercise his judgment when he chooses because he refuses to exercise that right when he has no interest in the matter. This question of disfranchisement, gentlemen, is one of the most serious that has been discussed in this Convention. Here you propose to strike at the very root of our government. If you want the foundations of government to crumble away, let our people feel that they are compelled to do this, that, and the other thing, whether they will or not. When our forefathers came here, they thought they had found an asylum where they could do as they chose, so long as they obeyed the law. The gentleman from Pulaski has cited the case of Switzerland. There you have a country dominated by nationalism, a country where from generation to generation has developed a nationalism that is to be commended. This does not apply to our country. We are composed of people from every flag, and you say that when a question of public policy arises or when a man who is unknown to these people is placed on the ballot they must vote or lose the right to vote when they are interested. There is another feature. I have been very much pleased at the altruistic sentiments expressed here. It would appear that an election in this country is to be made a tea-party, that we insist the voters exercise their right and they must go whether interested or not. Consider for one moment the fraud that would result from this thing. The disfranchisement of good, honest, intelligent people. You are placing in the hands of your politicians one of the greatest weapons to be wielded in this country. Gentlemen, do not do this thing—consider—because you are striking at the very foundation of our government. Who is to tell me I shall vote for a man I do not know? The City of Chicago tells us of the predicament she is in in regard to judges, they are unable to select the right men because they do not know them, and yet you would say you must vote for those men whether you know them or not, whether they are fitted for the office or not. Gentlemen, let's defeat this proposition. (Applause.)

Mr. MOORE (Macon). I find myself embarrassed by being opposed to my friend from McLean County. I do not know of anyone for whom I have greater respect than I have for our distinguished Ex-Governor, and I regret exceedingly that I am unable to follow him this morning. But I am heartily in favor of the substitute amendment offered by my friend from Cook county, (Dawes) who made such an eloquent appeal for the amendment. You have heard some talk about the dangers of government before. Why, gentlemen, there is no government from heaven to hell that is not a government of force. The Almighty tells us you must do this or you must do that

or you will be plunged into hell. There is a penalty placed upon every sinful act of humanity, or a reward, and it is right and proper that every citizen of the State of Illinois who is given the franchise to be compelled to exercise it, or suffer a penalty, and I hope this substitute amendment offered by the gentleman from Cook be adopted.

Mr. LOHMAN (Cook). Only yesterday this committee turned down an amendment denying the right of suffrage to those who had conscientious scruples against bearing arms; and I want to call to the attention of the committee we have also the conscientious objector when it comes to voting. I can cite you cases in Chicago where we have the non-partisan municipal election law. Just recently in one ward they had an election, and there were probably eight candidates on the primary ballot. Under the law if anyone of the eight receives a majority of the votes cast, he becomes elected. As it happened, not one of the candidates received a majority, so under the law the two highest were voted upon at a supplemental primary election. It happened that both candidates on the ticket were wet, and I know for a positive fact that the dry organization refused to support either of these candidates. There are other things that enter into this. We have the racial situation, the religious situation, we have candidates opposed to labor, and the labor people refuse to vote for them, and all sorts of situations enter into this, and I do not think the amendment or the substitute should carry. (Applause.)

Mr. BARR (Will). I appreciate the fact that the time is getting near to the recess hour, and I am not going to take much of the time of this committee, but I think that all of us appreciate the desire of having as large an attendance at elections as it is possible to obtain. I think we all appreciate the present situation and the present feeling among the voters has been such that it has been very difficult to get even a fair representation at the polls. If possible, if there is any way by which that situation can be remedied, it is desirable to consider it, but it occurs to me that we are traveling along the wrong road to arrive at the solution. I think we are inclined as we sit here to deal somewhat in theories and forget possibly the practical application of the theories we give voice to. Theoretically, it would seem that every person who has the right to vote should exercise it. Practically, with the enfranchisement of women, as has been suggested by one of the delegates, there is a possibility, not so much the objection to the exercise of that right, but the fact that women have not been accustomed to vote, will make many women in this State hesitate and probably not vote. As has been suggested to me by one of the delegates in this Convention, there are thousands of mothers in this State above the age of forty-five or fifty years at this time who have never exercised the right to vote and, who are inclined not to exercise the right to vote. Perhaps they are wrong about it, maybe they should have taken a part in politics, and maybe they should at this time come forward at once when the privilege is given them to vote and go to the polls and vote, but nevertheless I am inclined to think that every delegate in this hall is acquainted with some woman, and a number of them, who will probably reluctantly go to the polls on election day and cast their votes. They have not taken part in the machinery of government; they have not been going to the elections; they have not been going to meetings; they are feminine in their feelings and they have looked upon the matter of elections and campaigns as a part of government that belonged to the men, and for sometime and perhaps forever, there will be many of the women especially those women who have arrived at the age beyond that of middle life, fifty or sixty years, who will be very disinclined to go to a township election to vote for a constable, supervisor or highway commissioner.

Now, gentlemen of the Convention, perhaps I am wrong in my view on the subject, but it occurs to me that any legislation that will say to the women of the State of Illinois, you must go out on election day everytime an alderman is being elected, everytime a town officer is being elected, everytime any kind of election contest is being held, you must go out to the polls and cast your ballot or subject yourself to prosecution and fine or disfranchisement either temporarily or permanently is wrong. I want to suggest to you gentle-

men it is probably that class of women who are the very women that when some great issue comes up for consideration at an election that you and I will want to go to the polls on election day, and instead of having them they will be disfranchised either temporarily or permanently. The amendment as I understand it provides that the legislature might not permanently disfranchise anybody but it gives it the right to temporarily disfranchise any voter, and of course as the Constitution now stands if I am correct in my consideration of the powers of the legislature, the legislature would have full power to make provision for the enforcement of the right to vote, except going so far as to deprive the voter of the right to vote; I want to say further than that, even aside from the question of permanent or temporary disfranchisement of the voter. I do not believe that the legislature of this State nor the legislature of any state in this country should ever for one moment consider the idea of prosecuting those who refuse to vote, or those who neglect to vote when the mothers and daughters of that State have that right to vote. I believe they should exercise responsibility, but getting down to the practical application of it, I am inclined to think we kind of forget the practical application of some of these things, and we are forgetting at this time. Just how is it going to work out in your community? Assuming the legislature passes a law that should provide that a voter who does not vote on election day shall be subject to be brought in before the justice of the peace and fined three dollars and ten cents, ten dollars, fifteen dollars, or whatever it might be. I am inclined to think, gentlemen, that public sentiment would not support the enforcement of that law as it applies to young men, and old men and women. It would be just one more of those conditions that has tended to make the people of this country have disrespect for the enforcement of the law, because it is not enforced. No law should be enacted that is not intended to be enforced, and if the law is enforced, as it should be, if such a law is put upon the statute books, then it occurs to me we will be apologizing for that to ourselves and to our communities when we see some of the electors, many of them, especially among the women, brought down to the court of justice because they had omitted to exercise their franchise which perhaps they never wanted to exercise, but whether they wantd to or not, omitting through what would not be recognized as an excuse at law, but indeed a justifiable reason in the mind of the person, himself or herself. The enforcement of this law would bring about a situation that would make us all hide our faces in shame, I am inclined to think upon the enforcement of its provisions.

I think, gentlemen, that this amendment and this proposal should not receive the support of this Convention. (Applause.)

Mr. LINDLY (Bond). I recognize a motion on the previous question is not in order in the Committee of the Whole, but the rules of this Convention provide means by which the debate can be closed, and a vote taken upon the question. I now move that the debate be closed and vote on the question be now taken.

Mr. MILLER (Cook). It seems to me this is one of the most important questions we will have before the Convention, and it seems to me we ought not to vote on this now, because it is so near the adjourning hour, it seems to me it should receive further consideration.

Mr. LINDLY (Bond). I think the question has been pretty thoroughly discussed and I doubt whether there is a single man whose mind will be changed in four days of discussion. I insist on my motion.

(Motion carried.)

CHAIRMAN CRUDEN. The question reverts to the substitute amendment offered by the delegate from Cook (Dawes). The Clerk will please read the amendment.

(Amendment read by clerk.)

Mr. SNEED (Williamson). I will accept that amendment, if there is no objection.

CHAIRMAN CRUDEN. The vote is 24 to 49, and the amendment is lost.

(Amendment lost.)

Mr. DAVIS (Cook). I move that the Committee do now rise, report progress and ask leave to sit again.

(Motion carried.)

(President Woodward Presiding.)

Mr. CRUDEN (Cook). The Committee of the Whole to which was referred Proposal 351, begs leave to report progress and asks leave to sit again.

(Report adopted.)

Mr. DAVIS (Cook). May I ask the indulgence of this Convention at this time for presenting a matter of considerable interest to all of us. The Committee on Rules presented a report which was adopted by the Convention, the effect of which was to place five proposals on the general orders. These proposals are reports of committees. These reports will have to be considered by the Convention. Other reports of committees are now in process of preparation and will reach the Convention within the next few days. We have enough work for us now so that we may go at the task before us with an understanding of the amount of time required to complete the work of this Convention. I have no criticism to offer of the fact that heretofore practically no work has been done on Friday. Those who have remained over on Friday have found that it is impossible to hold committee meetings, or to have a session of the Convention where work is done. I think it is fair to the delegates that they have some notice in advance of the number of days that will be required of them in sessions of this Convention. Our experience of the report which have been considered by the Committee of the Whole under the unrestricted rule of debate, of which the delegates have taken free advantage makes one believe that unless we work regularly we will not finish our task in the time which is in the minds of a great many of us. I move, Mr. President, that beginning with the session on next Tuesday, the Convention days of this Convention be regularly designated as Tuesday, Wednesday, Thursday and Friday of each week.

(Motion carried.)

Mr. DAVIS (Cook). I further move that the Committee on Rules be requested to present such request as it may determine upon regarding the correlation of the committee meetings.

(Motion prevailed.)

Mr. CORCORAN (Cook). I move we now adjourn until ten o'clock tomorrow morning.

(Motion carried.)

Whereupon the Convention took an adjournment to Friday, April 23, A. D. 1920, ten o'clock a. m.

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